

MDR Tracking Number: M5-03-2260-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The EMG/NCV were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these EMG/NCV charges.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service from to in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 7<sup>th</sup> day of August 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

CRL/crl

July 29, 2003

IRO Certificate# 5259  
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An independent review of the above-referenced case has been completed by a medical physician [board certified] in neurology. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by \_\_\_\_, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_\_.

#### CLINICAL HISTORY

A 50-year old female who injured her neck and both upper extremities while at work on \_\_\_\_ while lifting two heavy binders filled with legal information. She underwent cervical fusion at C4, C5, and C6 in December 2001. She also had bilateral carpal tunnel and radial nerve releases. On June 14, 2002 she demonstrated atrophy of supraspinatus, infraspinatus, and rhomboid muscles bilaterally. Weakness in left biceps, left extensor digitorum, and intrinsic hand muscles. EMG/NCV was requested to elucidate the etiology of this postoperative muscle atrophy.

#### REQUESTED SERVICE (S)

EMG/NCV to evaluate postoperative muscle atrophy.

#### DECISION

EMG/NCV definitely medically indicated and necessary to evaluate unexpected and progressive muscle atrophy

#### RATIONALE/BASIS FOR DECISION

Progressive muscle atrophy after surgery is an unexpected and not readily explainable finding. Cervical myelogram of January 25, 2002 did not explain this atrophy. Electromyography with nerve conduction studies has long been the accepted standard for evaluating peripheral nerve and muscle dysfunction and muscle atrophy. EMG/NCV in the setting of muscle atrophy has long been the standard of care for evaluation of this type of problem.