

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-04-0141.M5**

MDR Tracking Number: M5-03-2544-01

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, 2003 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 office visits, special reports, arthrocentesis, unlisted procedure nerve system, joint mobilization, therapeutic activities, hot or cold packs were **found to be medically necessary**. The respondent raised no other reasons for denying reimbursement of physical medicine procedure 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 6/27/02 through 3/25/03.

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 8th day of August 2003

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division
MQO/mqo

August 6, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-03-2544-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in Physical Medicine and Rehabilitation. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ sustained injuries to his neck and low back in a work-related injury. He was treated conservatively, but failed to improve. A consultation was obtained from ___ when the MRI of the lumbar spine was negative. ___ provided diagnostic facet and SI joint injections with only temporary relief. He was given an impairment rating of 5% whole person impairment. After his impairment rating, a nerve conduction test was done in March of 2003 that confirmed radiculopathy in the right lower extremity. Vertical axial decompression or DRX treatment was ordered and a series of therapy treatments were performed but did not significantly improve his condition. Discography was recommended, but the issue before the IRO is to determine the medical necessity of office visits, special reports, arthrocentesis and unlisted procedure nervous system, joint mobilization, therapeutic activities, and hot and cold packs. The clinical information provided only makes reference to the reason for denial. The carrier has not provided an explanation as to why the disputed treatments were considered medically unnecessary.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits, special reports, arthrocentesis, unlisted procedure nervous system, joint mobilization, therapeutic activities and hot or cold packs provided to this patient from 6/27/02 through 3/25/03.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer finds that the procedures in dispute were appropriate and reasonable medical care, and were medically necessary. The fact that the patient did not improve does not mean that the procedures were not indicated, and did not mean that the patient's injuries were not in need of treatment. From electrodiagnostic studies, this patient had neuropathic pain which persists much longer than simple sprains and strains. The reason for denial by the carrier was not clearly delineated in the records provided. The reviewer finds in favor of the medical necessity of the disputed procedures listed above.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,