

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-1722.M5**

MDR Tracking Number: M5-03-2566-02

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution – General and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a dispute resolution review was conducted by the Medical Review Division regarding a medical payment dispute between the requestor and the respondent named above. This dispute was received 6-11-03.

This AMENDED FINDINGS AND DECISION supersedes M5-03-2566-01 rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of 2-25-04 was appealed and subsequently remanded to the Medical Review Division by the State Office of Administrative Hearings. An Order was rendered in favor of the Requestor. On 3-2-04, the insurance carrier refunded the requestor \$460.00 for the IRO fee per the MDR Order. The Respondent appealed the Order to an Administrative Hearing because MDR found that the Provider prevailed on the issues of medical necessity for various services; however, the IRO found that the insurance carrier prevailed on the issues of medical necessity.

## **I. DISPUTE**

Whether there should be reimbursement for nerve conduction study, office visits, computer data analysis, echo exams-spinal, pelvis, extremities, aquatic therapy, neuromuscular re-education, electrical stimulation, myofascial release, joint mobilization, and therapeutic exercises rendered from 8-14-02 through 11-8-02.

## **II. RATIONALE**

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the respondent is owed a refund of the paid IRO fee.

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 not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 9-3-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
8-26-02	95904 -27	\$52.00	\$44.80	F	\$64.00 / nerve or lesser amount X 70% = \$44.80	CPT Code MAR	Paid per MAR no reimbursement is recommended.
8-26-02	95935 (4) F-wave	\$61.00 x 4 = \$244.00	\$37.10	F	\$53.00 / study per extremity X 70% = \$37.10		On this date, the requestor billed for 6 units of 95935, and was paid for one at \$37.10. The requestor did not dispute one study or the reduction in payment. MAR reimbursement of \$37.10 X 3 = \$111.30 is recommended.
	95935 X 2 H-wave	\$80.00 X 2 = \$160.00		F, N			Documentation to support billed service was not submitted to challenge carrier's position, no reimbursement is recommended
8-28-02 9-13-02	99361	\$53.00	\$0.00	F	\$53.00	CPT Code MAR	MAR reimbursement of \$53.00 X 2 dates = \$106.00 is recommended.
9-20-02	99213	\$50.00	\$0.00	F	\$48.00	CPT Code MAR	MAR reimbursement of \$48.00 is recommended.
11-4-02	99215	\$108.00	\$0.00	N	\$103.00	Rule 133.307	Documentation to support billed service was not submitted to challenge carrier's position, no reimbursement is recommended.
TOTAL							Reimbursement of <b>\$265.30</b> is recommended. The respondent is due a <b>refund</b> of the IRO fee paid on 3-2-04 of <b>\$460.00</b> . The difference between amount due and refund = \$194.70. The carrier is due a refund of <b>\$194.70</b> .

### **III. AMENDED DECISION & ORDER**

Based upon the review of the disputed healthcare services within this request, the Medical Review Division has determined that the Respondent is entitled to a refund in the amount of \$194.70. Pursuant to Sections 402.042, 413.016, 413.031(a)(3) the Medical Review Division hereby ORDERS the Requestor to remit **\$194.70** plus all accrued interest due at the time of payment to the Respondent within 20 days receipt of this Order.

The above Amended Findings and Decision are hereby issued this 22<sup>nd</sup> day of September 2004.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division