

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

SOAH DOCKET NO. 453-04-0663.M5

MDR Tracking Number: M5-03-2572-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 17, 2001 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 requestor submitted a medical dispute resolution request on 6/10/03 and was received in the Medical Dispute Resolution on 6/11/03. The disputed dates of service from 5/13/02 through 6/10/02 are not within the one year jurisdiction in accordance with Rule 133.308(e)(1) and will be excluded from this Finding and Decision

The Medical Review Division has reviewed the IRO decision and determined, the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare and therefore, the **requestor did not prevail** in the IRO decision. Consequently, the requestor is not 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 the only issue** to be resolved. The physical medicine treatment, including hot/cold packs and ultrasound therapy were found to be medically necessary. The therapeutic treatment rendered, including therapeutic procedures, myofascial release and ultrasound therapy were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these 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 6/12/02 through 6/28/02 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 19th day of August 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/cl

August 8, 2003

Re: Medical Dispute Resolution
MDR #: M5-03-2572-01

___ has performed an independent review of the medical records of the above-named case to ___ determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Board Certified in Physical Medicine and Rehabilitation.

Clinical History:

This 66-year-old female claimant was injured on her job on ___. The records provided are unclear as to her specific injury. The physician found no major neurologic findings. There was some slight weakness in her right hand grip. An MRI scan showed osteophyte formation, spondylosis, and foraminal stenosis at C5-6 and C6-7. No evidence of cord compression was noted. An EMG revealed a right C-6 radiculopathy. The patient was working four hours a day at light duty, and did not wish to entertain surgery, although it may eventually be required. As long as the patient does not require surgery, no further treatment other than continued therapy was recommended.

Her treatment in May and June consisted of an exercise program and hot packs, ultrasound, and soft tissue manipulation, or what is often called myofascial release. She apparently did not report a great deal of improvement in the neck area. There was a lower back injury that did improve.

Disputed Services:

Therapeutic procedures, myofascial release, ultrasound therapy, and physical medicine treatment during the period of 06/12/02 through 06/28/02.

Decision:

The reviewer partially agrees with the determination of the insurance carrier and is of the opinion that physical medicine treatment was medically necessary. Therapeutic procedures, myofascial release, and ultrasound therapy were not medically necessary in this case.

Rationale:

Medical literature has been very clear as early as 1987 that the use of modalities in the treatment of chronic pain can easily be self-administered, and there is no requirement or benefit for these to be administered by a skilled therapist. This included myofascial release, heat applications, and ultrasound applications.

The patient was also treated with a McKenzie approach, identified by the exercises of retraction and extension. In addition, postural control was mentioned, both of which are appropriate.

The primary reason for indicating that the modalities, as mentioned above are ineffective is the monumental work that has become known as the *Quebec Task Force Report* that was published in the September 1987 supplement to the journal, *Spine*. This report clearly showed that the use of

modalities in the treatment of spinal pain, in that particular article referring to primarily lumbar pain, but certainly is transferable to cervical pain.

In summary, this patient had modality treatment for a cervical spine injury that was not appropriate, although it may be part of a standard of care. Also, appropriate exercises were utilized.

According to Texas Labor Code 408:021(a), an employee is entitled to the care reasonably required in association with their injury and the treatment thereof. If the patient's condition is not stable, the care to maintain and promote healing is medically necessary.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,