

MDR Tracking Number: M5-03-2597-01

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, 133.307 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. This dispute was received on June 16, 2003.

The IRO reviewed therapeutic exercises, portable whirlpool, performance test, MRI, office visits, joint mobilization, manual traction, myofascial release, neurological procedures, neuromuscular re-education, neuromuscular stimulator rendered from 11/20/02 through 3/20/03 denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** 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.

The therapeutic exercises, portable whirlpool, performance test, MRI, office visits, joint mobilization, manual traction, myofascial release, neurological procedures, neuromuscular re-education, neuromuscular stimulator rendered from 11/20/02 through 1/15/03 were found to be medically necessary.

The therapeutic exercises, portable whirlpool, performance test, MRI, office visits, joint mobilization, manual traction, myofascial release, neurological procedures, neuromuscular re-education, neuromuscular stimulator rendered from 1/16/03 through 3/20/03 were not found to be medically necessary.

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 August 14, 2003, 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\$	Reference	Rationale
11/27/02	A4558 Conductive	\$18.00	\$0.00	G	DOP	HCPCs code	The global rule is not applicable to the

	Paste or gel					CPT code descriptor	disputed charges. Review of the report does not support delivery of service. Therefore the requestor is not entitled to reimbursement of the disputed charge.
12/2/02	95999	\$384.00	\$384.00	F	DOP	<u>MFG, General Instructions Ground Rule (III)</u>  CPT code descriptor	Review of the "Sensory Nerve Conduction Threshold" report and "Neuro-Selective CPT Clinical Evaluation Record", supports delivery of service. However the EOB reflects the 95999 at \$64.00/unit at 6 units in the amount of \$384.00. Therefore the requestor is not entitled to additional reimbursement of the disputed charge.
1/23/03	97750-FC	\$500.00	\$0.00	F	\$500.00	<u>MFG, Medicine Ground Rule (I)(E)(2)(a-b)</u>  CPT code descriptor	Review of the EOB revealed that the requestor was paid \$200.00, however the requestor reflects \$0.00 paid per the "Table of Disputed Services". Review of the "Ergos Evaluation Summary Report", and "Ergos Evaluation Data Report", supports delivery of service. Therefore the requestor is entitled to reimbursement in the amount of \$500.00.
TOTAL		\$902.00					The requestor is entitled to reimbursement of <b>\$500.00.</b>

This Decision is hereby issued this 15<sup>th</sup> day of January 2004.  
Margaret Q. Ojeda  
Medical Dispute Resolution Officer  
Medical Review Division  
MQO/mqo

### **ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for dates of service 11/20/02 through 1/23/03 in this dispute.

This Order is hereby issued this 15<sup>th</sup> day of January 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
RL/mqo

August 8, 2003

Re: Medical Dispute Resolution  
MDR #: M5-03-2597-01  
IRO: 5055

\_\_\_ 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 Certified in Chiropractic Medicine.

#### **Clinical History:**

This male claimant injured his low back in a work-related accident on \_\_\_. He received both active and passive treatments.

#### **Disputed Services:**

Therapeutic exercises, portable whirlpool, performance tests, MRI, office visits, joint mobilization, manual traction, myofascial release, neurological procedures, neuromuscular re-education, neuromuscular stimulator for the period of 11/20/02 through 03/20/03.

#### **Decision:**

The reviewer partially agrees with the determination of the insurance carrier and is of the opinion that all the services in question were medically necessary for the period of 11/20/02 through 01/15/03 (eight weeks). These services were not medically necessary from 01/16/03 through 03/20/03.

**Rationale:**

According to the American Association of Orthopedic Surgeons' Low Back Treatment Guidelines, treatment for herniated disc can last between 8 and 12 weeks, with a change in treatment plan, or referral for orthopedic consultation if the symptoms persist. The patient received both active and passive therapy between four and five times a week, lasting up to two hours per day. This added up to over 30 days of office visits. He still had complaints of muscle spasms, segmental dysfunction, numbness in the feet, radiating pain into the lower extremities, and decreased range of motion in the lumbar spine, even though he had multiple visits for therapy.

Using the above-mentioned guidelines, eight weeks of treatment was sufficient and medically necessary to help to alleviate the patient's symptoms, and was sufficient to show the failure of conservative treatment, thus the need for further referrals for an orthopedic consultation. Due to the lack of progress of the patient with therapy and the continued symptomatology noted, the treatment, diagnostic testing, office visits, etc., from 11/20/02 through 01/15/03 (eight weeks) were medically necessary to treat this patient.

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,