

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

SOAH DOCKET NO. 453-04-6066.M5

MDR Tracking Number: M5-03-2608-01

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 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 dispute was received on 06-06-03.

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(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.

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 range of motion testing, muscle testing, sensory nerve testing, "H" or "F" reflex study, neuromuscular junction testing, temperature gradient studies, prolonged evaluation/management service, needle electromyography-2 extremities, needle electromyography limited study, nerve conduction study, Tensilon test, office consultation, electrodes, sterile needles, conductive paste or gel, betadine or Phisohex solution and tape, alcohol or peroxide on 10-08-02 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 Findings and Decision is hereby issued this 21st day of April 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

ORDER

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 date of service 10-08-02 in this dispute.

This Order is hereby issued this 21st day of April 2004.

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

NOTICE OF INDEPENDENT REVIEW DECISION

**Amended Letter
Note: Decision**

August 27, 2003

MDR Tracking #: M5-03-2608-01
IRO Certificate #: IRO4326

The ___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___'s health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

Clinical History

This patient sustained injuries to her right shoulder and cervical spine on ____. MRIs dated 07/17/02 revealed C5-6 disc space narrowing and right supraspinatus rotator cuff tear. Electromyography and nerve conduction velocity studies from 10/08/02 were normal.

Requested Service(s)

Range of motion testing, muscle testing, sensory nerve testing, "H" or "F" reflex study, neuromuscular junction testing, temperature gradient studies, prolonged evaluation/management service, needle electromyography-2 extremities, needle electromyography limited study, nerve conduction study, Tensilon test, office consultation, electrodes, sterile needles, conductive paste or gel, betadine or Phisohex solution, and tape alcohol or peroxide from 10/08/02

Decision

It is determined that the range of motion testing, muscle testing, sensory nerve testing, "H" or "F" reflex study, neuromuscular junction testing, temperature gradient studies, prolonged evaluation/management service, needle electromyography-2 extremities, needle electromyography limited study, nerve conduction study, Tensilon test, office consultation, electrodes, sterile needles, conductive paste or gel, betadine or PhisoHex solution, and tape alcohol or peroxide from 10/08/02 were medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The provider was appropriate to have electromyography (EMG) and nerve conduction velocity (NCV) studies performed on this patient.

If the diagnostic testing revealed a radiculopathy or impingement, it would allow the provider to have a greater insight to the patient's current pain generators and thus allow the development of a different algorithm that may include invasive applications.

The MRI data revealed a tear of the supraspinatus and possible glenoid labrum defect elevates the state of this patient's injury; it is not a simple strain/sprain. The need to establish positive pain generators would only assist this patient in any active rehabilitation program.

The medical record, as of 10/27/02, does show that all chiropractic and physical therapy applications have been exhausted. Therefore, it is determined that the range of motion testing, muscle testing, sensory nerve testing, "H" or "F" reflex study, neuromuscular junction testing, temperature gradient studies, prolonged evaluation/management service, needle electromyography-2 extremities, needle electromyography limited study, nerve conduction study, Tensilon test, office consultation, electrodes, sterile needles, conductive paste or gel, betadine or PhisoHex solution, and tape alcohol or peroxide from 10/08/02 were medically necessary.

The aforementioned information has been taken from the following guidelines of clinical practice and clinical references:

- *Clinical practice guidelines for chronic, non-malignant pain syndrome patients II: An evidence-based approach.* J Back Musculoskeletal Rehabil 1999 Jan 1; 13; 47-58
- Dillingham TR. *Electrodiagnostic approach to patients with suspected radiculopathy.* Phys Med Rehabil Clin N Am. 2002 Aug;13(3):567-88.
- Ludewig PM, Cook TM. *Alterations in shoulder kinematics and associated muscle activity in people with symptoms of shoulder impingement.* Phys Ther 200 Mar;80(3):276-91.
- Vowles KE, Gross, RT. *Work-related beliefs about injury and physical capability for work in individuals in chronic pain.* Pain, 2003 Feb;101(3):1-8

Sincerely,