

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

**SOAH DOCKET NO. 453-04-0802.M5**

MDR Tracking Number: M5-03-2754-01

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 11-18-02.

The Medical Review Division has reviewed the IRO decision and determined that 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 office visits, therapeutic activities and therapeutic exercises on 7-11-02 through 9-24-02 were found to be medically necessary. The electrical stimulation, vasopneumatic device therapy, massage, mechanical traction, myofascial release, and ultrasound on 7-11-02 through 9-24-02 were not found to be medically necessary. The respondent raised no other issues for denying reimbursement for the above listed services.

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 7-11-02 through 9-24-02 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 9th day of September 2003.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

DZT/dzt

September 5, 2003

Re: Medical Dispute Resolution  
MDR #: M5-03-2754-01  
IRO Certificate No.: 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 female claimant was sent for evaluation and treatment following a work-related accident on \_\_\_. She changed treating doctors when she was not responding to treatment as anticipated. On 05/09/02 an initial evaluation was performed, and an intensive treatment program was begun.

In August 2002, she experienced a significant increase in pain in the cervical spine, necessitating referral to a specialist for evaluation. The medical records provided for review indicated a cervical spine MRI was ordered, as well as a cervical spine epidural steroid injection. Following a Designated Doctor Evaluation on 10/14/02, the patient was placed at MMI, with a 5% permanent impairment rating.

**Disputed Services:**

Office visits and physical therapy sessions during the period of 07/11/02 through 09/24/02.

**Decision:**

The reviewer partially agrees with the determination of the insurance carrier in this case. The reviewer finds that all office visits, therapeutic activities and therapeutic exercises performed from 7/11/02 through 9/24/02 were medically necessary. Electric Stimulation therapy, Vasopneumatic devise therapy, Massage therapy, Mechanical traction therapy, Myofascial release, and ultrasound therapy administered 7/11/02 through 9/24/02 were not medically necessary.

**Rationale:**

The records indicate the patient was evaluated and an intensive treatment program was begun. Over the course of treatment, the patient received an intensive passive therapy program in conjunction with office visits and chiropractic adjustments. Only on a few occasions do the records indicate the patient received active therapy in the form of therapeutic exercises and therapeutic activities.

The National Treatment Guidelines allow for an initial passive therapy program with progression into an active therapy program. Under normal circumstances, a passive therapy program should last between two to four weeks. However, due to the extent of

this patient's injuries, which were documented in her records, eight to ten weeks of passive therapy was appropriate.

Regarding the denied dates of services from 07/11/02 through 0-9/24/02, since the date of service of \_\_\_ was almost three months post her injury date of \_\_\_; there are no National Treatment Guidelines that allow for the use of continued passive therapy modalities approximately three months post injury. Therefore, it was, in fact, usual, customary, reasonable and medically necessary for this patient to receive all office visits, therapeutic

activities and therapeutic exercises that were performed during the dates of service of 07/11/02 through 09/24/02. However, all other services, electric stimulation therapy, vasopneumatic devise therapy, massage therapy, mechanical traction therapy, myofascial release, and ultrasound therapy administered 7/11/02 through 9/24/02 were not reasonable, usual, customary or medically necessary for the treatment of this patient's on-the-job injury.

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,