

THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-04-5356.M5

MDR Tracking Number: M5-03-2916-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 7-11-03.

The IRO reviewed ROM testing, muscle testing, physical therapy sessions, office visits, office visits w/manipulations, and a neuromuscular stimulator from 3-6-03 through 5-7-03.

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.

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

On 8-25-03, 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\$ (Max. Allowable Reimbursement)	Reference	Rationale
3-6-03 3-25-03	95851	\$36.00	\$0.00	G	\$36.00 ea extrem	Rule 133.307(g)(3) (A-F)	ROM testing is not global. Relevant information supports delivery of service. Recommend reimbursement of \$36.00.
3-7-03 3-24-03	97750-MT	\$43.00	\$0.00	G	\$43.00 ea body area		Muscle testing is not global. Relevant information supports delivery of service. Recommend reimbursement of \$43.00.
TOTAL		\$79.00	\$0.00				The requestor is entitled to reimbursement of \$79.00.

The above Findings and Decision is hereby issued this 22nd day of March 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

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 Order is applicable for dates of service 3-6-03 through 5-7-03 in this dispute.

This Order is hereby issued this 22nd day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

August 19, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-03-2916-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

___, a butcher, sustained a head, neck and upper back injury when a meat roller fell off its track, striking him about the head and face. The patient underwent an MRI of both the brain and cervical spine that revealed moderate to significant right neural foraminal encroachment at C6/7 on the right side. The brain study was within normal limits, as was the NCV study performed on the upper extremity. A diagnosis of cervical and thoracic sprain was made. ___ underwent physical therapy, chiropractic manipulations and supervised rehabilitative exercises over approximately the next 90 days.

DISPUTED SERVICES

Under dispute is the medical necessity of range of motion testing, muscle testing, physical therapy sessions, office visits, office visits with manipulations and a neuromuscular stimulator provided from 3/6/03 through 5/7/03.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

All therapy and manipulations, office visits, neuromuscular stimulator application and testing were performed in attempt to bring the patient's case to a successful close. The record clearly documents the time and required level of supervision utilized in rehabilitative exercises. At contention is the one-on-one supervision of these exercises. There may have been a language issue that precluded a group setting for the completion of this program, but in either case, this was a judgment call for the doctor. The response to treatment would not have been known had none of these activities been performed.

The patient was entitled access to quality care, and if the outcome was not as expected, the next step would be referral to the next tier of care such as surgery or injections. The treating doctor adequately documented all procedures, outcomes and referrals that he deemed to be medically necessary. By licensure, the doctor determines the best way to approach each patient's care.

The TWCC Medicine Ground Rules state on page 31, I (A) that the treatment in question should be "specific to the injury and provide potential improvement of the patient's condition." All treatments rendered in this case were intended to cure or relieve the symptoms occurring from the work-related injury. The ___ reviewer finds the treatments in question to be medically necessary.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,