

**THIS MDR TRACKING NO. WAS WITHDRAWN.  
THE AMENDED MDR TRACKING NO. IS: M5-04-0392-01**

MDR Tracking Number: M5-03-2982-01

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 7-17-03.

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 office visits, joint mobilization, myofascial release, therapeutic exercises, range of motion, NCV/somatosensory/H&F reflex studies (technical components), muscle testing, copies, conductive paste, and the FCE on 7-25-02 through 9-19-02 were found to be medically necessary. The office visits, work hardening program, FCE, electrical nerve stimulator, and MMI/IR report from 9-23-02 through 11-25-02 were not found to be medically necessary. The respondent raised no other issues for denying reimbursement for the above listed services.

The above Findings and Decision are hereby issued this 19<sup>th</sup> day of September 2003.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

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 7-25-02 through 11-25-02 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 September 2003.

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

September 18, 2003  
Amended January 21, 2004

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

MDR Tracking #: M5-03-2982-01  
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 who is on the TWCC Approved Doctor List (ADL). 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

The documentation presented states that \_\_\_ is a 30-year-old male who was injured at work on \_\_\_. He was pulling a light generator when it fell over, impacting the patient's

right hand and causing a crush injury of the fifth digit. The impact caused a deep laceration on the palmar aspect of his right hand. The patient was rushed to the company doctor and underwent wound irrigation, debridement, and the repair of the neurovascular bundle by \_\_\_ on 5/28/02. The patient was prescribed medications and physical therapy by \_\_\_ for his condition. \_\_\_ switched doctors to \_\_\_ and continued active and passive care for his condition. \_\_\_ referred \_\_\_ for an MRI of the right hand on 8/2/02 that revealed cellulites in the area of the trauma with inflammation and slight thickening in the region of the trauma. The other findings within the scan were unremarkable.

The patient was then referred for a second opinion on 9/9/02 with \_\_\_ who noted a 3cm palmar scar with no signs of infection. \_\_\_ also stated that the patient did exhibit active and passive range of motion in the fifth digit, but lacked 15 degrees of extension at the PIP joint. \_\_\_ recommended continued occupational therapy. \_\_\_ underwent a designated doctor's examination on 9/20/02 that found him at MMI, and he was given a 3% whole person impairment rating. He was referred for numerous FCEs and muscle testing of the involved area to gauge his progress on 7/11/02, 8/22/02 and 9/12/02. There were some discrepancies noted in the patient's efforts.

#### DISPUTED SERVICES

Under dispute is the medical necessity of MMI/IR report, somatosensory testing, DME (conductive gel), DME (nerve stimulators) and copies, office visits, myofascial release, joint mobilization, therapeutic exercises, range of motion tests, H or F reflex studies, nerve conduction studies, muscle testing, special reports, FCE and electrical nerve stimulation from 7/25/02 through 11/25/02.

#### DECISION

The reviewer both agrees and disagrees with the prior adverse determination.

The EMG/NCV tests and all treatment through 9/20/02 were found to be medically necessary and appropriate.

Electrical nerve stimulation, MMI/IR report, somatosensory testing, DME (conductive gel), DME (nerve stimulators), copies and treatment after 9/20/02 are not found to be medically necessary.

#### BASIS FOR THE DECISION

The EMG/NCV tests are considered medically necessary, based on the post-operative report, MRI results and the extent of the patient's injury. The reviewer also found medical necessity for all treatment through 9/20/02.

Treatment after 9/20/02 is not considered medically necessary based on the patient's findings and response to care. The electrical nerve stimulation would also not be considered medically necessary due to the findings from the EMG/NCV study.

The MMI/IR was performed over 2 months after the report of the Designated Doctor. There was no rational reason for such a report to be rendered at that time. Somatosensory

testing would not render any information that would reasonably help this patient's diagnosis, as EMG/NCV was the most appropriate diagnostic tool. The DME utilized was not reasonable at that point in the treatment plan, as passive modalities would not be effective at that stage of the care.

The study performed at the LSU Department of Neurosurgery in 1995 found that operative complications, such as post-operative hematoma, infection, dehiscence, or prolonged immobilization give support to the position that post-operative scarring is the cause of patients' persistent symptoms, therefore post-operative physical therapy is imperative in a patient's progress. This determination falls within the Mercy Fee Guidelines, Texas Guidelines for Chiropractic Quality Assurance and Practice Parameters, and well within the mainstream of the medical community.

\_\_\_ 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,