

MDR Tracking Number: M5-03-3219-01

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 8-8-03.

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 \$650.00** 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 chemodenervation of cervical spinal muscles and other peripheral nerves/branch including upper trapezius, rhomboids, and cervical paraspinals; botulimun toxin, hot/cold packs, therapeutic exercises, massage therapy, and muscle energy technique were found to be medically necessary. The needle EMG, injection of nerves, and special supplies were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The above Findings and Decision are hereby issued this 2<sup>nd</sup> day of December 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 date of service 9-11-02 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 2nd day of December 2003.

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

**NOTICE OF INDEPENDENT REVIEW DETERMINATION**

REVISED 11/26/03

MDR Tracking Number: M5-03-3219-01
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November 10, 2003

An independent review of the above-referenced case has been completed by a medical physician board certified in neurology. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by \_\_\_\_, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_.

Notice of Independent Review Determination

CLINICAL HISTORY

A 48 year-old male who sustained a cervical strain injury from a work related motor vehicle accident on \_\_\_.

Neurological examination was normal. MRI scan and bone scan suggested compression fracture at C5 due to suggestion or marrow edema. He responded to trigger point injections in the bilateral upper trapezius, rhomboids, and cervical paraspinals, parenthetically, without EMG needle electrode guidance on two occasions. Botulinum toxin chemodenervation was performed on 9/11/02.

#### REQUESTED SERVICE(S)

Needle electromyography, chemo denervation of cervical spinal muscles and other peripheral nerves/branch, botulinum toxin, special supplies, hot/cold packs, therapeutic exercises, massage therapy, and muscle energy technique on 9/11/02.

#### DECISION

- A. Chemodenervation of cervical spinal muscles and other peripheral nerves/branch including upper trapezius, rhomboids, and cervical paraspinals; botulinum toxin, hot/cold packs, therapeutic exercises, massage therapy, and muscle energy technique approved.
- B. EMG, injection of nerves, special supplies (presumably EMG needles for botulism toxin injections) denied.

#### RATIONALE/BASIS FOR DECISION

Since the patient responded well to trigger point injections in the muscles listed, botulism toxin infiltration of these muscles was definitely medically indicated and necessary. Longer term response would definitely be expected with botulinum toxin injection. ON follow-up visit the patient indeed reported very good improvement to infiltration in these muscles. The hot/cold packs, therapeutic exercise, massage therapy, and muscle energy technique would be indicated to minimize pain, edema, and spasm and further instruct the patient in proper stretching techniques. The muscles listed are easily approachable without EMG guidance and therefore the EMG needle guidance and EMG needles are felt to be unnecessary. There is no indication of nerve blocks in the report of 9/11/02; therefore these are disallowed. This is a procedure different from botulinum toxin chemodenervation.

### **YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

**If disputing a spinal surgery prospective decision** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

**If disputing other prospective medical necessity (preauthorization) decisions** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk  
Texas Workers' Compensation Commission  
P.O. Box 17787  
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 26<sup>th</sup> day of November 2003.