

MDR Tracking Number: M5-03-3318-01

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 (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 August 18, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the medical necessity issues. 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 therapeutic exercises were found to be medically necessary. The ultrasound and muscle stimulation were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the therapeutic exercises, muscle stimulation and ultrasound charges.

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 3/12/03 through 4/10/03 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 4th day of November 2003.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division
MQO/mqo

October 27, 2003

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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 reviewer 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 patient was injured when she was working as a cook and slipped in some water, falling to the floor and injuring her head, neck and low back. She was initially treated with passive treatment and failed to respond. MRI was performed that indicated a L4/5 disc herniation as well as a sequestered fragment at the level of L2/3. There was, as well, a large right-sided disc herniation at the C5/6 level, which compressed the cord. The records indicate that the treating provider began active treatment on April 15, 2003, which was performed for 8 weeks. Electrodiagnostic studies were performed after that point, which indicated a lumbar radiculopathy at the level of L4 on the right. Cervical EMG was negative for pathology.

DISPUTED SERVICES

Under dispute is the medical necessity of electrical stimulation, ultrasound therapy and therapeutic exercises from 3/12/03 through 4/10/03.

DECISION

The reviewer agrees with the prior adverse determination with regard to ultrasound (97035) and muscle stimulation (97032).

The reviewer disagrees with the prior adverse determination for all other care.

BASIS FOR THE DECISION

This case was handled conservatively by the treating doctor and gave a good effort at active rehabilitation. Active rehabilitation on this patient did have a positive effect, although the patient still had difficulty with pain and strength. The diagnostic tests were demonstrative of pathology in this case which would make recovery more difficult. The active therapy provided was appropriate due to the serious nature of the injuries suffered. However, passive care at this point in the treatment plan was not reasonable or necessary. The reviewer believes that the passive care was, at this stage, non-therapeutic for this patient and is not documented for its medical necessity.

___ 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,