

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NO.:**

SOAH DOCKET NO. 453-04-1542.M5

MDR Tracking Number: M5-03-3325-01

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.

Date of service 8/16/02 was received after the one year filing deadline and is considered untimely per Rule 133.308 (e)(1) and is therefore not eligible for review.

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 muscle testing, joint mobilization, myofascial release, therapeutic exercises, office visits, group therapy procedure, for dates of service 8/20/02 through 9/3/02 were found to be medically necessary. The office visits, joint mobilization, myofascial release, therapeutic exercises, group therapy procedure for dates of service 9/4/02 through 10/15/02 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the muscle testing, joint mobilization, myofascial release, therapeutic exercises, office visits, group therapy procedure 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 8/20/02 through 9/3/02 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 23rd day of October 2003.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review DivisionMQO/mqo

October 17, 2003

Re: MDR #: M5-03-3325-01
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 injured on her job on two occasions, the first being on ___ at which time she injured her low back, mid-back and left upper extremity. The second injury occurred on ___. After the second injury, she had low back pain. She was taken to the emergency room, examined, and referred out for epidural steroid injections.

Since the second injury, the patient has undergone a total of 69 sessions of physical therapy. These have included chiropractic adjustments, exercises, ice/heat, and muscle stimulation.

Disputed Services:

Office visits, myofascial release, joint mobilization, group therapy procedure, therapeutic exercises, and muscle testing during the period of 08/20/02 through 10/15/02.

Decision:

The reviewer partially agrees with the determination of the insurance carrier in this case. The reviewer is of the opinion that the services and treatments in question were medically necessary from 08/20/02 through 09/03/02. These services and treatment were not medically necessary after 09/03/02 through 10/15/02.

Rationale:

It is evident that the patient has multiple symptoms and has undergone a myriad of treatments. She has also shown slow but documented objective findings indicating improvement, as shown with the muscle testing strength chart, until 09/03/02. At that time, improvement in symptoms seemed to have plateaued and entered into a chronic state. It is reasonable to assume that after thirty days of no significant changes or improvement in subjective findings, the current treatment protocol should be reviewed and changed accordingly. This opinion is further acknowledged by the introduction summary on the muscle testing report provided by the treating doctor. However, according to the treatment notes, the treatment protocol remained the same after 09/03/02.

Therefore, the treatments after 09/03/02 were not reasonable and necessary. Treatments prior to this date from 08/20/02 through 09/03/02 were 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,