

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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 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(q)(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 disputed range of motion and physical performance tests were found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

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

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 22nd day of November 2002.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

November 4, 2002

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

MDR Tracking #: M5-03-0180-01
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

The patient sustained a lumbar disc surgery on August 2, 2001 for which he was undergoing treatment. On September 10, 2001, range of motion testing was performed and a report generated. This service has been denied by the carrier, as they believe the service is related to another service billed on the same day.

An initial functional capacity evaluation was conducted on October 26, 2001. A report is present detailing the findings and documents the testing took place over a five-hour time frame. The insurance carrier has reduced the charge and allowed a partial payment of \$220 of the \$500 billed.

DISPUTED SERVICES

The items in dispute are range of motion and physical performance tests.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The range of motion test is a separate and distinct service according to the Texas Worker's Compensation Medical Fee Guideline. This service requires a report that is also considered a separate procedure. Range of motion testing is not considered to be a part of the office visit, nor a part of the report code 99090. This test performed under code 95851 should be paid according to TWCC fee guidelines.

The functional capacity evaluation was this patient's initial test with the report clearly documenting the five hour length of time the examination took. Page 35 of the Medicine Ground Rules states the initial FCE is to be reimbursed at \$100 per hour, up to a five hour maximum. Subsequent FCEs are to be billed to a two hour maximum at the same hourly rate. Since the documentation supports the five hour length of time for this initial test, the full \$500 should have been paid in this case.

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,