

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 IRO determined the disputed services considered medically necessary did not exceed the amount due for the medical services found not medically necessary. Therefore, the Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, in accordance with §133.308(q)(9), the Commission hereby **Declines to Order** the respondent to refund the requestor 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 IRO determined the office visits, physical therapy, massage therapy, spray and stretch and electrical stimulation through 2/13/02 were medically necessary. The IRO determined all phonophoresis, phonophoresis supplies, group health education, special supplies and aquatic therapy were not medically necessary. The IRO also determined all office visits and/or treatment performed after 2/13/02 were not medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 30th day of January 2003.

Noel L. Beavers  
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 11/13/01 through 7/8/02.

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 30th day of January 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

January 22, 2003

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

MDR Tracking #: M5-03-0455-01  
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

\_\_\_ was initially injured on \_\_\_. At the time of injury she was sitting in the drive seat of a bus. She was attempting to put her seat belt on when a collision/bump/impact from another bus occurred. She stated that she "heard her neck and low back 'pop'." There were imaging findings demonstrating a "*central HNP with annular tear of L5/S1 without much lateralization...*" and a "*satisfactory post-surgical appearance anterior interbody fusion and discectomies at C5/C6 and C6/C7...*"

The documentation of disputed visits in this record begin on 11/13/01. On January 21, 2002 \_\_\_ presented with an “acute re-exacerbation” of the \_\_\_ injury, which was a result of performing “activities of daily living that consisted of early spring cleaning at her house.”

The positive orthopedic tests indicated were “Valsalva’s Maneuver, Maximum Foraminal Compression, Straight Leg, Cervical Distraction, Shoulder Depression, Nachlas, Yeoman’s, Ely’s and Kemp’s Test.” The initial diagnosis given was cervical sprain/strain, intervertebral disc displacement for the cervical and lumbar spine, facet syndrome, thoracic or lumbosacral neuritis or radiculitis, and other post-surgical status.

### DISPUTED SERVICES

Under dispute is the medical necessity of office visits, physical therapy, phonophoresis and phonophoresis supplies, massage therapy, group health education, special supplies, aquatic therapy, spray and stretch and electrical stimulation rendered from 11/13/01 through 7/8/02.

### DECISION

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

The office visits and/or treatments performed after February 13, 2002 would not be considered medically necessary.

Office visits, physical therapy, massage therapy, spray and stretch, and electrical stimulation would be considered medically appropriate through February 13, 2002.

The following procedures would be deemed not medically necessary: phonophoresis and phonophoresis supplies, group health education, special supplies and aquatic therapy.

### BASIS FOR THE DECISION

The date of February 13, 2002 is twelve weeks after her original documented visit of 11/13/01. Any office visits and/or therapies (active and passive) after February 13, 2002, would be considered to be not medically necessary.

The office visits and/or treatments performed after February 13, 2002 would not be considered medically necessary, based on the classically positive evidence documented and the standard of care per the Disability Guidelines. The documented evidence demonstrates a mild strain/sprain condition in the cervical spine and/or sacroiliac region. These conditions usually require six to eight weeks of care to resolve. Furthermore, minimal active and/or passive modalities are required and/or recommended to treat a minor condition. However, being that this claimant as had cervical surgery in the past and a documented lumbar disc herniation, treatment may have been extended to some degree. Hence, taking \_\_\_ pre-existing surgical and/or disc herniation conditions into consideration, twelve weeks is medically appropriate.

The fact that the documentation of a minor condition was present and its association to “activities of daily living”, the following procedures would be deemed not medically necessary: phonophoresis and phonophoresis supplies, group health education, special supplies and aquatic therapy. These types of treatment are usually required in more severe cases.

Minor conditions require less attention to manage and/or alleviate. Therefore, physical therapy, massage therapy, spray and stretch, and electrical stimulation would be considered medically appropriate for up to eight weeks. This would be consistent with the Treatment Guidelines as well as the Disability Guidelines. However, again, taking \_\_\_ pre-existing surgical and/or disc herniation conditions into consideration, twelve weeks is medically appropriate.

First, the indication of increased discomfort and/or pain does not actually demonstrate a positive orthopedic test. This was indicated within the notes. Proper documentation is not demonstrated. There were descriptions of how the tests were performed with a description of potential classical and/or clinical findings. However, Kemp’s test might be considered classically positive, but there was no dermatome level indicated. Furthermore, the Straight Leg Raise (SLR) test is usually conducted in addition and/or prior to performing Kemp’s test. There were three particular orthopedic tests documented throughout these records (Valsalva’s Maneuver – related to the cervical spine, Maximal Foraminal Compression – related to the cervical spine, Kemp’s test – related to the lumbar spine). The reviewer notes that most of these tests would be considered classically negative but might demonstrate clinical significance in the examples below:

#### Kemp’s Test

- *Rationale:* In a patient with antalgia due to a discal lesion, this test could help confirm whether it is a medial or lateral disc protrusion. Other orthopedic tests must be conducted to verify if this test is actually positive. (SLR, Valsalva, Etc.)
- *Classical Significance:* Radicular symptomatology will be present.
- *Clinical Significance:* Severe unilateral lumbar myospasms can result in an antalgia and what appears to be a positive Kemp’s test. However, if radicular symptomatology is absent, it is a negative orthopedic test with clinical significance.

#### Valsalva Maneuver

- *Rationale:* The increase in pressure will increase the intraspinal pressure if a space-occupying lesion is present.
- *Classical Significance:* An increase in radicular symptomatology along a specific dermatome is a positive result.

- *Clinical Significance:* A space-occupying lesion can indicate disc protrusion, tumor, or foraminal or lateral recess osteophytosis, or both. It is possible to have intervertebral foramen (IVF) encroachment because of soft tissue swelling, even when the IVF are patent. The resultant edema causes congestion at the nerve root level.

#### Maximum Foraminal Compression

- *Rationale:* This procedure compresses the intervertebral foramina and thus may increase impingement of a nerve root.
- *Classical Significance:* Radicular dermatologic symptomatology is a positive result.
- *Clinical Significance:* Ill-defined scleratogenous pain may indicate a facet involvement on the same side being tested. If pain is felt locally on the opposite side of the neck, consider muscular strain.

Therefore, one can conclude that with the document presented that there might be the possibility of a mild muscular strain. This could coincide with the “spring cleaning” activities.

Second, there was global motor weakness indicated. This could be interpreted in one of two ways. The claimant is either not giving maximum effort or “+4” is really a +5 for this patient.

Third, the loss of motion indicated would appear to be contradictory when comparing the amount of motion required to sit and/or walk. For example, flexion range of motion was documented to be 15 degrees (60 degrees = normal). Ambulation requires an average hip flexion of 30 degrees. When sitting, 70-90 degrees of trunk flexion is needed, particularly when performing Kemp’s test. Therefore, the degree of flexion is highly suggestive of a submaximal effort.

Fourth, the majority of the “positive tests” indicated for the lumbar spine would actually be highly sensitive and/or more specific for the sacroiliac (SI) joint (Nachlas, Yeoman’s and Ely’s). In addition to this, the Straight Leg Raise (SLR) test was indicated but again, the degree and whether or not radicular symptoms (dermatome) were present was not indicated. However, the LSR test (note below) and Kemp’s test (noted above) can both demonstrate clinical significance for SI joint involvement. Proper documentation is of most importance. The SLR test is as follows:

### Straight Leg Raise (SLR or Lasegue's test)

- *Rationale:* This test creates different biomechanical forces at the sacroiliac joint and lumbar nerve roots. Therefore, it is important to note not only the type of pain but also the angle at which it occurs.
- *Classical Significance:* Radicular symptomatology will be present.
- *Clinical Significance:* Lumbar muscles or psoas recruitment or spasms can result in antalgia. Tight hamstrings may also be the cause of pain behind the thigh. However, if radicular symptomatology is absent, it is a negative orthopedic test with clinical significance.

The conclusion that can be made from the orthopedic documentation provided would be that this claimant had a sacroiliac joint problem, which would be consistent with "spring cleaning" chores (bending or stooping).

The records provided demonstrate classical and/or clinical findings consistent with a mild strain to the cervical region and a sacroiliac (SI) joint sprain and/or strain.

There is no question that any of the therapies performed would increase this patient's health as well as her recovery period as it relates to her "re-exacerbated" condition. However, the natural healing process from a minor condition caused by "spring cleaning" would require less of an aggressive approach, as well as a smaller time frame to recover. Furthermore, there was no supporting documentation indicative of cervical and/or lumbar disc problems, with the exception of the "mild sensory deficit" documented. Therefore, this further confirms a minor sprain and/or strain possibly existed. Again, according to most literature, these conditions require less attention, reduced treatment time and minimal physical modalities (active and/or passive).

There was no supportive documentation to support such an aggressive approach that required phonophoresis and phonophoresis supplies, group health education, special supplies, and aquatic therapy. Therefore, the reviewer finds these treatments to not be medically necessary.

There was supportive documentation to substantiate a short trial of physical therapy, massage therapy, spray and stretch, and electrical stimulation. These modalities would normally be considered medically appropriate for six to eight weeks. However, taking \_\_\_ pre-existing surgical and/or disc herniation conditions into consideration, twelve weeks is medically appropriate.

\_\_\_ 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,