

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 post-operative rehabilitation (including: office visits with manipulation, therapeutic procedures, massage therapy, ultrasound, reports, physical performance test, and consultation) was found to be medically necessary. The only date of service that was not found to be medically necessary was 8/19/02. The respondent raised no other reasons for denying reimbursement for these evaluations and post-operative rehabilitation charges.

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

Carol R. Lawrence  
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 3/4/02 through 8/19/02 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 30th day of, January 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/cl

NOTICE OF INDEPENDENT REVIEW DECISION

Date: November 20, 2002

Requester/ Respondent Address      Rosalinda Lopez, TWCC, 4000 South IH-35,  
MS-48, Austin, TX 78704-7491

RE: MDR Tracking #: M5-03-0458-01  
IRO Certificate #: 5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a chiropractor. The chiropractor has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

Clinical History

The injured worker reported that on \_\_\_ he injured his low back while loosening a bolt at work. He originally went to a company doctor who gave him medications and sent him back to work light duty. He eventually sought treatment with the chiropractor on 08/29/2000. He underwent conservative care that failed to bring long-term relief. At that point the claimant was evaluated and recommended to have surgery on his L4/5 disc on 01/04/2001. Then, the claimant was treated a second time with conservative care through

post-op rehabilitation and a work hardening program. After continued pain in his low back, it was recommended that he have another surgery. The claimant had surgery again on 11/28/2001. He continued with active and passive care with the doctor, but as of 10/28/2002 he continued to report almost constant low back pain.

#### Requested Service(s)

It has been requested that I review and address the medical necessity of the outpatient services rendered between 03/04/2002 though 08/19/2002.

#### Decision

It is determined that monthly visits for evaluations and proper referrals are medically necessary. The post-operative rehabilitation, as requested by the surgeon, after the 11/28/2002 is also medically necessary from 03/04/2002 until 05/04/2002. Without showing substantial improvement over the initial eight weeks, the remainder of care between 05/04/2002 – 08/19/2002 is not medically necessary.

#### Rationale/Basis for Decision

The procedures that were performed on the claimant began after the surgeon gave proper orders. The active and passive modalities performed on the claimant after eight weeks showed no long-term improvement. Due to the continued radiation of pain into his leg, the claimant should have been referred back for a surgical consult, to rule out the need for additional surgery. If no further operation was indicated, he should have been referred for pain management. Continuation of chiropractic care, without documentation of objective improvement is not reasonable or necessary.

This decision by the IRO is deemed to be a TWCC decision and order.