

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-03-3586.M5**

MDR Tracking Number: M5-03-0615-01

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 office visits, phonophoresis with supplies, conductive paste or gel, ultrasound, and aquatic therapy were found to be medically necessary. Therapeutic therapy on dates, 4/29/02, 5/8/02 and 5/13/02 were also medically necessary. The remaining dates of service of therapeutic therapy were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the charges of office visits, phonophoresis with supplies, conductive paste or gel, ultrasound, and aquatic therapy.

This Finding and Decision is hereby issued this 30<sup>th</sup> day of April 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer

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 1/14/02 through 5/13/02 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 30<sup>th</sup> day of April 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
RL/cl

April 29, 2003

**NOTICE OF INDEPENDENT REVIEW DECISION  
Corrected Letter**

**RE: MDR Tracking #: M5-03-0615-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the \_\_\_ external review panel. The \_\_\_ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 40 year-old male who sustained a work related injury on \_\_\_. The patient reported that while at work as a mechanic, he was working on a crane that had a problem with the motor. As he was pulling the motor out of the crane he slipped. He reported that his left leg got caught on the motor and he twisted his left knee, low back and leg to catch him self from falling. The patient reported that he heard a pop in his left knee. The diagnoses for this patient included displacement of lumbar intervertebral disc, tear of medial cartilage or meniscus of knee, and myalgia and myositis (unspecified). The patient has undergone MRI of the right knee on 8/4/01, MRI of the left knee 6/30/01, and MRI of the lumbar spine 8/4/01. The patient also had knee surgery.

Requested Services

Phonophoresis and phonophoresis supplies, office visits, therapeutic exercises, aquatic therapy, conductive paste or gel, and ultrasound therapy from 1/14/02 through 4/22/02 and 4/25/02 through 5/13/02.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

Rationale/Basis for Decision

The \_\_\_ physician reviewer noted that the patient sustained a work related injury on \_\_\_. The \_\_\_ chiropractor reviewer also noted that the patient was treated with phonophoresis, therapeutic exercises, aquatic therapy, and ultrasound therapy. The \_\_\_ chiropractor reviewer explained that the patient was treated with both therapeutic therapy and aquatic therapy on almost all office visits. The \_\_\_ chiropractor reviewer also explained that it is not medically necessary to treat this patient with both aquatic therapy and therapeutic therapy at each office visit. The \_\_\_ chiropractor reviewer indicated that only one therapy per office visit is medically necessary to treat this patient's condition. The \_\_\_ chiropractor explained that the phonophoresis and ultrasound therapy were also medically necessary to treat this patient's condition. Therefore, the \_\_\_ chiropractor consultant concluded that the phonophoresis and phonophoresis supplies, office visits, aquatic therapy, conductive past or gel, and ultrasound therapy from 1/14/02 through 4/22/02 and 4/25/02 through 5/13/02 were medically necessary to treat this patient's condition. The \_\_\_ chiropractor consultant further concluded that the therapeutic therapy services 4/29/02, 5/8/02, and 5/13/02 were medically necessary to treat this patient's condition. However, the \_\_\_ chiropractor concluded that the remaining therapeutic therapy services from 1/14/02 through 4/22/02 and 4/25/02 through 5/13/02 were not medically necessary to treat this patient's condition.

Sincerely,

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