

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 (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, the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare and therefore, the **requestor did not prevail** in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 monthly office visits with physical therapy services (including active and passive therapies) were found to be medically necessary. The remaining office visits with physical therapy services including active and passive therapies more than once a month, performed outside the work hardening, were found not medically necessary. The respondent raised no other reasons for denying reimbursement for these office visit and physical therapy 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 2/27/02 through 8/16/02 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 15<sup>th</sup> day of April 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

CRL/crl

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** December 30, 2002

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

**RE: MDR Tracking #:** M5-03-0630-01  
**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 chiropractic physician reviewer. The chiropractic physician reviewer 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 claimant slipped and fell while carrying two boxes while at work on \_\_\_. He was initially treated by the doctor, but changed to the chiropractor on 04/23/2001. During the course of his care, the claimant has had three (3) epidural steroid injections, chiropractic care, work hardening and two (2) surgeries. The claimant was treated eighty-eight (88) times by the doctor, with traditional chiropractic care and another thirty-eight (38) times under a work hardening program. During the treatment period, the claimant was unable to work. On September 24, 2002 the doctor gave the claimant a 10% whole person impairment. The documentation I received ended on 08/16/2002, but it appears that the injured worker received his second surgery on 11/19/2002.

### **Requested Service(s)**

Please review and address the medical necessity of the services requested on 02/27/2002 through 08/16/2002.

## **Decision**

I disagree with the insurance company. The work hardening program, monthly office visits, diagnostic testing, and the functional capacity exam were medically necessary; from 2/27/02 to 8/16/02. I agree with the insurance company about the remainder of the treatment, that chiropractic and physical therapy services, including active and passive therapies performed outside the work hardening program and office visits, of greater frequency than once a month, were not medically necessary.

## **Rationale/Basis for Decision**

From the documentation supplied, the patient was given conservative chiropractic care from 04/01 until several months' post-surgery; this was a more than adequate trial to see if it would work. After the therapy that was prescribed by the surgeon was completed, future chiropractic care, both active and passive modalities would no longer be necessary. This was long enough to see if the claimant would respond with the doctor's care. There were several opinions from doctors validating the need for the work hardening; this in my opinion shows the validity of this procedure. From 02/27/2002 until 08/16/2002 the patient's normal office visits were medically necessary to ensure proper treatment and referrals as needed. The additional joint mobilization, myofascial release and other therapeutic exercises received on the office visit days were not necessary, as this is a continuation of the active and passive care that was no longer effective. The diagnostic testing utilized during the time frame in question was also seen as medically necessary.

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