

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 office visits with manipulations 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 dates of service 11/7/01 through 1/3/02.

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 7th day of January 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

January 2, 2003

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

MDR Tracking #: M5-03-0640-01
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

___, employed as a painter for ___, injured his right knee, lower back and neck when he slipped into a hole while carrying trash down a wooden ramp.

DISPUTED SERVICES

Under dispute are office visits with manipulations from 11/7/01 through 1/3/02.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The treating doctor performed services "on an as-needed basis... to promote recovery to enhance his ability to retain and return to work and also to cure and relieve the effects of the resulting injury."

The treating doctor states that the care in question was needed because early care to the patient's spine was delayed by ___ requirement for knee surgery and rehabilitation.

The impairment (2%) and MMI rating by ___ on 9/20/01 is challenged by the treating doctor as premature and low, as evidenced by:

- Impairment of 13% by ___ on 10/02/01
- Impairment of 16% by ___ on 11/20/02
- The patient was recommended for additional physical therapy by ___ on 10/12/01 because he was still in pain and was not responding as he should
- The patient was still having problems on 11/29/01 when seen by ___ for a neurological work-up.

The respondent has denied payment for services because:

- T – Not according to treatment guidelines
- U– Unnecessary treatment
- The medical examination by ___ on 9/20/01 stated inconsistencies and magnification.

The ___ reviewer has found that the services provided to ___ were necessary and appropriate.

The TWCC Rule 408.021 entitles the patient to all health care reasonably required by the nature of the injury as and when needed. Specifically, care that:

- 1) Cures or relieves the effects naturally resulting from the injury
- 2) Care that promotes recovery
- 3) Care that is approved or recommended by the employee's treating doctor.

___ 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,