

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

SOAH DOCKET NO. 453-03-2722.M5

MDR Tracking Number: M5-03-0656-01

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 \$650.00** 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 electrical stimulation, physical medicine procedures, phonophoresis, special supplies, therapeutic exercises, therapeutic activities and physical performance test were found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 14th day of February 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 date of service 11/2/01 through 2/13/02.

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 14th day of February 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/nlb

February 10, 2003

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

MDR Tracking #: M5-03-0656-01
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 Medical Doctor who is both specialized and board certified in Physical Medicine and Rehabilitation. 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

___ is a 31-year-old female who, during the course of her employment, developed a repetitive motion injury on ___. She was initially treated by a company doctor and a company therapist. She was placed on light duty and improved. She was able to return to regular duty. When she returned to full duty after the initial therapies, the pain worsened. She changed treating doctors to ___, who recommended passive treatment and continued light duty and no medications. He used manual electrical stimulation on a one-on-one

basis for 30 minutes to the shoulder as well as phonophoresis with hydrocortisone cream for 30 minutes on an every-other-day basis, or three-times-a-week basis. She was noted on 11/2/02 to have continued discomfort in her shoulder as well as her back. The doctor's notes indicated that she had increased range of motion. An MRI was recommended, as well as changes in her therapies. She was continued on the electrical stimulation for 30 minutes and phonophoresis for 30 minutes and therapeutic exercises, therapeutic activities and spray and stretch for 15 minutes was added. Her pain rating varied between 4 and 5. She declined spray and stretch treatments. Therapy was modified and on 11/26/01, her pain rating was low. At the completion of her therapy, she was started on a return to work program at 4 hours and gradually progressing. The patient was unable to return to work because company policy only allowed 90 days of light duty. She was off work.

___ was considered for a work hardening program, but ___ was contacted by ___ who questioned the medical necessity of her therapies. ___ was concerned about the lack of improvement. On 1/14/02, ___ requested consultation with ___, orthopedist. He noted that she had a left rotator cuff syndrome and a slight tear and injected her shoulder with cortisone. After the Cortisone injection, a physical performance test was performed, which indicated that she could do only sedentary or light work. She was not able to return to a regular job. Work hardening was recommended. She was evaluated by a designated doctor on April 29th and as given a 4% whole person impairment and then allowed to return to work with restrictions. In July, the patient was allowed to start on a ramp up program where she would work four hours and increase the work by two hours every week. She was noted to have increased pain, but she was able to tolerate it. In August of 2002, a fractured forearm prevented movement of the forearm, but the shoulder was not injured at that time.

There was a peer review dated 1/7/02 from ___, who opined that the therapies were excessive and not reasonable. He found fault with the lack of documentation as well as prior treatments and functional limitations and meaningful recommendations and managed objectives. ___ appealed the denial for the physical therapy services on 4/26/02, stating that the records did clearly indicate that the patient's pain was monitored, she demonstrated improvement with increased range of motion, and that he had complied with documentations that were identified by the peer review as being faulty. Also at

issue, the services that were billed for were denied based upon a peer review, but the peer review was dated 1/7/02, though not received by ___ until 42602.

DISPUTED SERVICES

Under dispute are electrical stimulation, physical medicine procedures, phonophoresis, special supplies, therapeutic exercises, therapeutic activities and physical performance testing provided to this patient from 11/2/01 through 2/13/02.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The basis for the denial by the carrier was by a ___ Peer Review, dated 1/7/02. He found fault with the documentation provided by ___ for the services rendered. Though the ___ reviewer also finds the documentation to be rather scant, it is certainly well within range of normal with comparison to the medical practices of other providers. Upon review of ___ documentation and his rationale, the ___ reviewer finds that he met the standard of documentation that is necessary for providing the services that were provided to this patient.

___ 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,