

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 amount due for the services found medically necessary exceeds the amount for the services found not medically necessary. Therefore, 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, physical therapy and diagnostic tests from 4/1/02 through 6/12/02 were found to be medically necessary. The disputed office visits, physical therapy and diagnostic tests from 6/12/02 through 6/28/02 were not medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 20th day of March 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 dates of service 4/1/02 through 6/12/02.

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 20th day of March 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** March 13, 2003

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

**RE:**

**MDR Tracking #:** M5-03-0732-01  
**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 above named claimant sustained a low back injury on \_\_\_. She was initially seen at \_\_\_ on \_\_\_. Per report, she had passive care for 5 weeks. Treatment notes from 1/18/02 through 3/31/02 were not included in this review. The claimant was under care for 10 weeks prior to the dates of service in question. Treatment notes available were for dates of service 4/1/02 through 6/28/02 which is the period of time services were considered not medically necessary. A lumbar MRI performed on 2/26/02 revealed a diffuse posterior bulge or protrusion at L2/3 measuring 3mm and a shallow bulge at L5/S1 measuring 2-3mm. An EMG performed on 4/2/02 revealed a mild traumatic bilateral S1 nerve root irritation, worse on the right. Only one epidural steroid injection was documented and was performed on 5/16/02. The claimant was also followed for medication during this time. She was seen by a designated doctor on 8/5/02 who determined she was not at MMI, the report for the exam was not available, only the TWCC-69.

**Requested Service(s)**

Services rendered from 4/1/02 through 6/28/02 which included office visits, physical therapy and diagnostic tests.

**Decision**

Treatment from 4/1/02 through 6/12/02 was medically necessary. Treatment from 6/12/02 through 6/28/02 was not medically necessary

**Rationale/Basis for Decision**

In this reviewer's opinion given the provided medical information, not all of the services rendered during this time were medically necessary. The MRI and EMG were medically necessary based on the claimant's history and subsequent findings. Exam findings from 3/18/02 and 4/1/02 support the medical necessity of active supervised rehabilitation. On 4/22/02, exam findings documented improvement and the necessity for continued care. More active treatment was introduced with aerobic exercise, resistance exercises and coordination exercises. On 5/16/02, the claimant had the first epidural steroid injection and continued rehab which was appropriate as recommended in the 5/15/02 through 6/15/02 letter of medical necessity. There was not another epidural steroid injection documented after 5/16/02 and, based on the claimant's progress through 6/12/02, treatment should have begun to taper down with a gradual transfer to an active independent care plan. Therefore, treatment after 6/12/02 appeared excessive and not medically necessary given the documentation available for review. Although treatment from 4/1/02 through 6/12/02 was documented as medically necessary, the medical reports did not document any significant continued subjective and objective progress or an attempt to gradually transfer the patient to a more active independent care plan. Based on these findings continued care at the same visit frequency with the same modalities was not warranted.

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

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 13th day of March 2003.