

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

**SOAH DOCKET NO. 453-05-3649.M5**

MDR Tracking Number: M5-03-0746-01

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 amount due for the services found medically necessary exceeded the amount due for those 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 chiropractic treatment with the exception of the one on one therapeutic exercises from 1/28/02 through 8/21/02 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Order is Finding and Decision is hereby issued this 1st day of April 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 1/28/02 through 8/21/02.

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 1<sup>st</sup> day of April 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

March 21, 2003

**NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-03-0746-01**

\_\_\_ 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 47 year-old female who sustained a work related injury to her cervical spine and right shoulder on \_\_\_. The patient reported that while at work she was putting packs of clothes into a cart. The patient reported that this is a repetitive motion and part of her job. The patient reported that on this day, she was putting the clothes into the cart when she felt a pop in her right shoulder and a muscle pull in her neck. The diagnoses for this patient include cervicobrachial syndrome (diffuse), sprain of shoulder and upper arm, myalgia and myositis. The patient had an MRI of the cervical spine and right shoulder on 3/17/00. The patient underwent shoulder surgery in January of 2001. The patient was treated post surgery with active, passive, and aquatic therapy. The patient experienced an exacerbation in August of 2002 and was again treated with chiropractic care for this.

Requested Services

Chiropractic treatment from 1/28/02 through 8/21/02.

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 \_\_\_ chiropractor reviewer indicated that the chiropractic treatment and aquatic therapy are documented as being medically necessary and beneficial to the patient. The \_\_\_ chiropractor reviewer explained that the patient showed steady improvement and was released from care until the next exacerbation occurred 6 months later. The \_\_\_ chiropractor reviewer also explained that the patient did not want surgery and that conservative care is a viable option and appropriate. However, the \_\_\_ chiropractor reviewer noted that the medical necessity for one on one therapeutic exercise is not documented. The \_\_\_ chiropractor reviewer explained that the patient's condition had not changed requiring this special treatment. The \_\_\_ chiropractor reviewer also explained that once the patient was instructed on how to perform the exercises, the patient could have done them at home or unsupervised. Therefore, the \_\_\_ chiropractor consultant concluded that the one on one therapeutic exercises from 1/28/02 through 8/21/02 were not medically necessary to treat this patient's condition. The \_\_\_ chiropractor consultant further concluded that all other chiropractic treatment from 1/28/02 through 8/21/02 were medically necessary to treat this patient's condition.

Sincerely,

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