

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 aqua-therapy and educational supplies from 2/19/02 through 3/21/02 was found to be medically necessary. Aqua-therapy and physical medicine after 3/21/02 was not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these aqua-therapy and educational supply charges.

This Finding and Decision is hereby issued this 31st day of January 2003.

Carol R. Lawrence  
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 2/19/02 through 4/24/02 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 31st day of January 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/cl

December 12, 2002

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

MDR Tracking #: M5-03-0758-01  
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 Physical Therapist. 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 46-year-old female who was driving a school bus for work on \_\_\_. She reports that she was turning right onto a cross road when another bus slowed to allow her to turn. A pickup truck passed the other bus and hit her nine-passenger bus in the rear end. She was initially seen at the \_\_\_ on 10/31/01, and then referred to physical therapy. Office

visits from \_\_\_ indicate that her symptoms increased with that treatment plan. She was subsequently sent to \_\_\_ for aquatherapy.

### DISPUTED SERVICES

Under dispute are aquatherapy, physical medicine and educational materials supplied from 2/19/02 through 4/24/02.

### DECISION

The reviewer both agrees and disagrees with the prior adverse determination.

Aquatherapy and educational supplies through 3/21/02 were medically necessary in establishment of a trial period.

However, aquatherapy and physical medicine was not medically necessary from 3/22/02 forward.

### BASIS FOR THE DECISION

Presently there is no peer review literature to indicate that aquatherapy is superior to land-based P.T. There are many antidotal reports of aquatherapy for early and gentle mobility for people who could not move as well on land. The following decision is based on the Guide to Physical Therapist Practice, published by the American Physical Therapy Association 1997, revised July 1999.

This patient had insurance authorization initially on 2/7/02 and subsequently three times per week for four weeks on 3/1/02 and 3/26/02. The physical therapy goals for \_\_\_ on the initial evaluation of February 11, 2002 were non-specific and not linked to the patient's function.

The daily progress notes were non-specific, i.e., "conditioning, strengthening, stretching, and range of motion exercises." The types of exercises as well as repetitions, sets and size of foam noodles used were not mentioned. There is also no mention in any progress note if the patient was monitored one-on-one and if any progression was attempted.

Re-evaluation of 3/21/02 showed maximum improvement in motion and strength. After that date, it appears that the patient's symptoms increased while motion and strength decreased.

A review on 3/21/02, by \_\_\_, indicates that this patient improved with increasing motion, increasing strength and decreased pain levels. A report dated 5/29/02 by \_\_\_ reports that \_\_\_ had no symptom improvement with aquatic therapy.

Due to the conflicting reports from the treating M.D. and Physical Therapist, as well as the lack of clear function-related goals and progress reports, the reviewer finds the treatment from 3/22/02 forward was not medically necessary.

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,