

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 requestor submitted a medical dispute resolution request on 12/2/02 and was received in the Medical Dispute Resolution on 12/2/02. The disputed dates of service 11/28/01 is not within the one year jurisdiction in accordance with Rule 133.308(e)(1) and will be excluded from this Finding and Decision.

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 office visits w/manipulations, application of neuromuscular stimulator, physician conferences from 12/10/01 through 1/30/02 were found to be medically necessary. The office visits w/manipulations, application of neuromuscular stimulator, physician conferences from 1/31/02 through 4/4/02 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these office visits w/manipulations, application of neuromuscular stimulator, physician conference charges.

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 12/10/01 through 4/4/02 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 2nd day of June 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

CRL/crl

January 28, 2003

### **NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-03-0861-01**

\_\_\_ 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 \_\_\_ external review panel. \_\_\_ 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, \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

#### Clinical History

This case concerns a gentleman who sustained a work related injury on \_\_\_. The patient has been diagnosed with a displacement of lumbar intervertebral disc without myelopathy, sciatic neuritis, spasms of muscles, and lumbar subluxation. The patient underwent X-Rays and Sonogram. The patient has been treated with pre-modulation therapy, whirlpool, joint mobilization, manipulation, and neuro-transmitter. The patient has also been seen in consultation by an orthopedic surgeon and chiropractor.

### Requested Services

Application of neuromuscular stimulator, office visits with manipulations, and physician conferences from 11/28/01 through 4/4/02.

### 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

\_\_\_ chiropractor reviewer noted that the patient had sustained a work related injury on \_\_\_. \_\_\_'s chiropractor reviewer also noted that the patient was treated with an application of a neuromuscular stimulator, office visits with manipulations, and physician conferences from 11/28/01 through 4/4/02. \_\_\_ chiropractor reviewer explained that the patient failed to show significant improvement after the first two months of treatment. \_\_\_ chiropractor reviewer also explained that the patient should have been re-evaluated in the absence of significant improvement after the first two months of treatment. Therefore, \_\_\_ chiropractor consultant concluded that application of neuromuscular stimulator, office visits with manipulations, and physician conference from 11/28/01 through 1/30/02 were medically necessary to treat this patient's condition. However, \_\_\_ chiropractor consultant further concluded that application of neuromuscular stimulator, office visits with manipulations, and physician conferences from 1/31/02 through 4/4/02 were not medically necessary to treat this patient's condition.

Sincerely,