MDR Tracking number: M5-03-0882-01

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 do not exceed the amount due for the services found not medically necessary. Therefore, the Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, in accordance with §133.308(q)(9), the Commission **Declines to Order** the respondent to refund the requestor 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 impairment rating performed on 5/15/02 was found to be medically necessary. The therapeutic exercises, office visits with manipulations and therapeutic procedures were found to not be medically necessary. The respondent raised no other reasons for denying reimbursement.

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 4/17/02 through 8/16/02.

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 9th day of April 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

April 4, 2003

Re: IRO Case # M5-03-0882

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IRO's, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Physical Medicine and Rehabilitation. He or she has signed a certification statement attesting 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 referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The ___ reviewer who reviewed this case has determined that, based on the medical records provided, the requested treatment was not medically necessary. Therefore, ___ agrees with the adverse determination regarding this case. The reviewer's decision and the specific reasons for it, is as follows:

<u>History</u>
The patient was injured on ___ when she slipped and fell forward on outstretched hands. She continued to work that day, but three days later she felt cervical and right elbow pain. She presented to a chiropractor for evaluation. She was treated with chiropractic manipulations and passive modalities. An MRI of the cervical spine on 2/26/02 reportedly showed a minimal bulging disk at C5-6 without herniation. The case was reviewed by an orthopedic surgeon on 3/6/02. The surgeon recommended physical therapy but did not think further chiropractic

treatment was necessary. A brief FCE on 3/7/02 indicated that the patient was capable of returning to work with light duty restriction, but did not specify what those restrictions should be, or what the patient's job requirements were. On 3/20/02 an orthopedic surgeon diagnosed the patient with cervical sprain and upper extremity sprain, and he recommended further physical therapy. Notes from the treating chiropractor on 4/3/02 indicated that the patient continued to have pain in her neck and right arm. Chiropractic treatment, passive modalities and exercises were continued. On 4/11/02 the patient was given facet injections at C3-4, 4-5, 5-6, 6-7 on the right, with no apparent benefit. The chiropractor continued to treat the patient with passive modalities, exercises and chiropractic treatment. The patient's symptomatology began to improve. On 5/15/02 the patient was assigned a 0% impairment rating.

Requested Service(s)
Therapeutic exercise, MP office outpatient visit, therapeutic procedure and work related evaluation 4/17/02-8/16/02

Decision
I agree with the carrier's decision to deny the all of the requested services, except for the impairment rating performed on 5/15/02. I disagree with the denial of the impairment rating performed on 5/15/02.

Rationale
The patient was injured on ___. She was diagnosed by two orthopedic surgeons with a sprain/strain of the cervical spine and right elbow. She was treated appropriately with physical therapy and passive modalities in the acute phase of the injury. Continued physical therapy and chiropractic treatment three months after the injury would not be medically necessary. The physical therapy recommended on 3/20/02 should also have been completed by three months post injury. The FCE on 3/7/02 is one page and does not describe the work duties of the patient, or her deficits and limitations. All that is listed is range of motion measurements for the cervical spine.
It is unclear why the impairment rating 5/15/02 was disputed. It is a routine step in the treatment of injured workers in Texas to assign an impairment rating following an injury.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,

____