

MDR Tracking Number: M5-03-0977-01

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 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 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 disputed therapeutic exercises and therapeutic activities were found to be medically necessary. The electrical stimulation and ultrasound therapy were found not 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 date of service 8/28/02.

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 1, 2003

Re: IRO Case # M5-03-0977

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:

History

The patient was injured in a motor vehicle accident on ___. The patient was initially treated by a chiropractor with chiropractic treatments, modalities and acupuncture. The treatments continued for about four months. An MRI of the lumbar spine 4/20/02 was significant for a brad based disk bulge and large central disk extrusion at L5-S1 that compromised the S1 nerve root bilaterally, and a brad based disk bulge and annular fisher at L4-5. The patient changed treating physicians,

and the new physician diagnosed the patient with cervical spine herniated disk and lumbar spine herniated disk. The patient was started in active physical therapy along with continued modalities. Electrodiagnostic testing on 8/15/02 was significant for acute and chronic L5 radiculopathy, Chronic S1 radiculopathy and chronic bilateral L5 radiculopathy. The patient apparently underwent an L5-S1 discectomy in October 2002, also no notes from that procedure were presented for this review.

Requested Service(s)

Electrical stimulation, Therapeutic Exercise, Therapeutic Activities, Ultrasound Therapy 8/28/02

Decision

I disagree with the carrier's decision to deny the requested therapeutic exercises and therapeutic activities.

I agree with the carrier's decision to deny the requested electrical stimulation and ultrasound therapy.

Rationale

The patient was injured on _____. It appears from the records presented for this review that he was treated with extensive passive modalities, but there is no evidence of active therapy until July, 2002. Physical therapy in the form of active exercises is an important part of a rehabilitation program following a back injury. It is unfortunate that this did not begin until over four months after the initial injury. However, the amount of active physical therapy performed was not excessive. By August, 2002, passive modalities had no place in treatment this far out from the time of injury. Passive modalities are effective in the acute phase of the initial 2-3 weeks. Beyond that time there is no medical necessity to continue passive modalities.

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

Sincerely,
