

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 services found medically necessary do not exceed the amount 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, upon receipt of this Order and 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 office visits with manipulations from 7/26/02 through 10/18/02 were found to be medically necessary. The physical therapy and modalities performed between 7/26/02 and 10/18/02 were 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 dates of service 7/26/02 through 10/18/02 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 1st day of April 2003.

Noel L. Beavers  
Medical Dispute Resolution Officer  
Medical Review Division

NLB/nlb

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** March 27, 2003

**Requester/ Respondent Address:** Rosalinda Lopez  
TWCC  
4000 South IH-35, MS-48  
Austin, Texas 78704-7491

**RE: MDR Tracking #:** M5-03-1013-01  
**IRO Certificate #:** 5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a chiropractor/physician reviewer who is board certified in chiropractics. The chiropractor/physician reviewer has signed a certification statement stating 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 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 this case.

### **Clinical History**

According to the documentation supplied, claimant injured his back at work on \_\_\_ while lifting a box overhead. He reported pain in his low back, which radiated down his left leg, calf and into his left heel. The claimant reported to D.C. who began chiropractic care on him a few days later. A MRI was performed on 06/26/2002, which revealed a 3-mm bulge at L4-5. A NCV and EMG report on 08/01/2002 revealed lumbar radiculopathy involving the L-5 nerve. Claimant was referred for pain management on 09/16/2002. M.D. recommended that he continue aggressive rehabilitation and have an ESI performed. An FCE report dated 08/30/2002 stated that the claimant was able to work in a light duty situation. The claimant had an ESI on 10/25/2002 and Dr. recommended the 2<sup>nd</sup> and 3<sup>rd</sup> injection. The claimant was under chiropractic from 05/2002 until the documentation ended around 10/18/2002.

### **Requested Service(s)**

Please review and address the medical necessity of the outpatient services rendered between 07/26/2002 – 10/18/2002.

## **Decision**

I agree with the insurance company that the physical therapy and modalities performed between 07/26/2002 and 10/18/2002 were not medically necessary, but I disagree with the insurance company about the office visits, I feel bi-weekly office visits were medically necessary.

## **Rationale/Basis for Decision**

The claimant began with chiropractic care in 05/2002. By 07/26/2002 he had given conservative therapy an adequate trial. At that time, it would be advisable that the treating doctor seeks options to benefit the claimant's injury. Continued passive care would not be warranted. I do feel that the claimant would continue to have a need of biweekly office visits to continue any needed referrals and to monitor progress with treatment. This does not include office visits 3 times a week. Current literature states that beyond the 8-week timeframe it would be advisable to proceed with different procedures to help alleviate the claimant's symptoms.

This decision by the IRO is deemed to be a TWCC decision and order.

<p>In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 27<sup>th</sup> day of March 2003.</p>
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