

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 total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare; therefore, the **requestor did not prevail** in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 not the only issue** to be resolved. The office visits, neuromuscular re-education, and four units of therapeutic exercises were found to be medically necessary for dates of service 5-13-02 through 7-8-02. The office visits, neuromuscular re-education, gait training, and more than four units of therapeutic exercises were not found to be medically necessary. All treatment/services after 7-8-02 were not found to be medically necessary.

The requestor submitted a letter of withdrawal for all disputed dates of service denied as “N” or “F” in this dispute.

The above Findings and Decision are hereby issued this 22nd day of May 2003.

Dee Z. Torres  
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 4-17-02 through 9-18-02 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 22nd day of May 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

March 31, 2003

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

MDR Tracking #: M5 03 1081 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.

This case was reviewed by a licensed Doctor of Chiropractic. 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

This patient was injured on the job when he was connecting a hose to a fuel tank and fell into a ditch, injuring his low back. Records indicate that he had an immediate onset of low back pain which became worse as the day wore on. He later developed pain and numbness radicular to the left leg. He continued work until the middle of April, 2002, when he started treatment with \_\_\_. MRI revealed multiple levels of disc protrusions and annular tearing. Myelogram/CT indicated long term degeneration of the lumbar spine and a notable stenosis with protrusion at L4/5. \_\_\_ was consulted on this case and eventually determined that it was surgical in nature. Designated Doctor \_\_\_ found the patient not to be at MMI on October 17, 2002 and recommended a trial of McKenzie exercises to avoid surgery. \_\_\_ included a letter of complaint regarding the suggestion in his records submission.

A file review was performed by \_\_\_. He quotes the Mercy Center Guidelines as the "Mercy Hospital" guides and determines that care after April 17, 2002 was unsupported.

#### DISPUTED SERVICES

The carrier has denied the medical necessity of office visits, physical therapy and analysis of information from May 13, 2002 through September 18, 2002.

## DECISION

The reviewer agrees in part and disagrees in part with the prior adverse determination.

The reviewer agrees with the prior adverse determination regarding code 97116, gait training and the reviewer finds that therapeutic procedures (97110) should be limited to no more than 4 units per day. The reviewer agrees that care past July 8, 2002 would be considered unnecessary.

All other care that was rendered was considered necessary.

## BASIS FOR THE DECISION

The treating doctor's protocol for treatment was reasonable for a case of this magnitude. Certainly, it is realistic to attempt rehabilitation of a low back injury before a patient is sent to surgery. The carrier's reviewer, \_\_\_\_, does not make suggestions as to what would be a reasonable alternative to active and passive treatment but rather simply states that no care is necessary. It is the determination of this reviewer that care was indeed a worthwhile undertaking in this case. The treatment was in excess on therapeutic activities and there is no indication for gait training. Also, upon the decision for surgery the treating doctor should have stopped the care at that point in time. Otherwise, the treatment program was performed in good faith by the treating doctor and was meant to help the patient return to a productive work environment.

\_\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_\_ has made no determinations regarding benefits available under the injured employee's policy.

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,