

MDR Tracking Number: M5-03-1139-01

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, 2003 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 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 reimburse 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 procedures limited to twice a day were found to be medically necessary. The myofascial release, ultrasound therapy, physical medicine treatment, joint mobilization, physical performance test, data analysis, office visits and special reports 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 dates of service 1/31/02 through 7/16/02.

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 28th day of March 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

March 20, 2003

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

MDR Tracking #: M5 03 1139 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 in the right shoulder and hand after a gradual onset of pain due to repetitive trauma. She was treated with passive and active treatment by ___ who is the treating doctor on the case. The records indicate that she began treatment with that clinic on the date of injury, ___, which is listed as the date of injury. Extensive therapeutic intervention is listed in the form of chiropractic, occupational therapy and medical injections, along with diagnostics. The records indicate that there were FCE's performed on December 28, 2001, June 18, 2002 and June 24, 2002. The results from December 28, 2001 do not include lift testing, but muscle testing does indicate that the patient generally had the same strength bilateral. FCE of June 18 does indicate that the patient had significantly improved strength in the upper extremities. There is no indication as to why 2 FCE's were performed within days of each other nor is there any explanation why each of the FCE's covered different body parts.

DISPUTED SERVICES

The carrier has denied myofascial release, therapeutic procedures, ultrasound therapy, physical medicine treatment, joint mobilization, physical performance testing, data analysis, office visits and special reports as medically unnecessary both with and without peer review from January 21, 2002 through July 16, 2002.

DECISION

The reviewer finds that there is medical necessity for therapeutic procedures, not to exceed 2 units per day, for the duration of the dispute.

All other treatment is found to be medically unnecessary.

BASIS FOR THE DECISION

The therapeutic procedures used were helpful in this case, as the patient was clearly responding to the active care rendered as ordered by the treating doctor. However, myofascial release, ultrasound, hot packs and muscle stimulation are passive in nature and would not be reasonable in a patient at this stage of rehabilitation. There is no evidence of which I am aware that would give a protocol of passive treatment in excess of 9 months, even after a therapeutic procedure such as an injection. The physical performance test that was performed on June 18, 2002 was within 1 week of a second procedure. There is no reason that this procedure would be considered reasonable at such a close interval. Some of the same testing performed on the later testing was duplicated in this examination and this is neither reasonable nor necessary. While I recognize that there are "difficult" cases, the care rendered on this case was clearly in excess, with the exception of the therapeutic activities.

___ 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,