

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-03-3461.M5**

MDR Tracking Number: M5-03-1200-01

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 medical services found medically necessary does not exceed the amount for those services found 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(r)(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, radiological exam, joint mobilization, myofascial release, manual traction, computer data analysis, therapeutic exercises, range of motion measurements, physical performance test, range of motion test, nerve conduction study and neuromuscular study provided by the requestor from 4/2/02 through 5/2/02 were found to be medically necessary. The office visits, therapeutic procedures, joint mobilization, myofascial release, therapeutic procedures, physical performance tests, analysis of data and range of motion testing provided by the requestor from 5/3/02 through 7/1/02 were found to be 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 4/2/02 through 7/1/02 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 May 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division
NLB/nlb

NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 16, 2003 - correction

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

RE: MDR Tracking #: M5-03-1200-01
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.

A matched peer performed the independent review with the treating health care provider. Your case was reviewed by a chiropractor. The chiropractic physician reviewer has signed a statement acknowledging that there are no conflicts of interest in relation to himself and the treating doctor and/or the patient. The reviewer has also certified that the review has no bias toward or against either party.

The reviewer has based his decision upon the evidence solely from the medical records received. The reviewer has never performed any exam on the patient. All determinations were based on the submitted records.

Clinical History

According to the documentation supplied, the claimant injured his left shoulder while at work on ___ performing his normal job activities. He was treated for approximately 1 year with the doctor who gave him shoulder injections. After the doctor recommended surgery, the claimant switched treating doctors to a chiropractor. The chiropractor noted that the claimant had multiple positive orthopedic tests. The chiropractor began chiropractic therapy on the claimant for a few months, and then referred him internally to another chiropractor, who put the claimant through a work hardening program. The claimant was treated at ___ from 04/02/2002 through 09/25/2002. Multiple functional capacity evaluations were performed. The daily notes were all submitted for review. The chiropractor stated that at the end of treatment, the claimant was able to return to work full time.

Requested Service(s)

Please review and address the medical necessity of the outpatient services rendered 04/02/2002-07/01/2002.

Decision

I agree with the insurance provider that the medical services provided between 05/04/2002 and 07/01/2002 were not medically necessary. I do feel that the treatment rendered between 04/02/2002 – 05/02/2002 was medically necessary.

Rationale/Basis for Decision

After almost 1-year post injury, the patient was in a chronic state. The initial 30 days of treatment (04/02/2002-05/02/2002) would be an adequate trial to try to improve claimant's complaints. If the initial complaints were not corrected in a 30-day trial, then the treating physician would need to refer for future treatment options. If treatment had improved his symptoms, a home exercise protocol would have been warranted to help continue therapy at home and without any doctor dependent therapy. Continued passive care is not warranted in the claimant's situation. After careful review of Essentials of Musculoskeletal Care, by a doctor, I found no literature supporting prolonged passive care in a chronic shoulder.

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 16th day of April 2003.</p>
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