

MDR Tracking Number: M5-03-1223-01

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 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, in accordance with §133.308(q)(9), the Commission hereby **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, physical therapy and supplies from 1/22/02 through 2/4/02 were found to be medically necessary. The office visits, physical therapy and supplies from 2/5/02 through 6/6/02 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 1/22/02 through 6/6/02.

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 2nd day of May 2003.

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

April 24, 2003

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-03-1223-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent

review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. This physician is board certified in physical medicine and rehabilitation. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 39 year-old male who sustained a work related injury on ___. The patient reported that while at work he fell causing injury to his back at the L5-S1 level. The diagnoses for this patient included herniated disc at the L5-S1 level. The patient reported that he underwent surgery February 28, 2001 for removal of a herniated disc. The patient has been treated with physical therapy that included ultrasound, electrical stimulation with moist heat pack, massage, aquatic exercise and general exercise from 1/22/02 through 6/6/02 on an irregular basis.

Requested Services

Office Visits, physical therapy and supplies from 1/22/02 through 6/6/02.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

Rationale/Basis for Decision

The ___ physician reviewer noted that the patient sustained a work related injury on ___. The ___ physician reviewer also noted that the patient was treated with physical therapy, aquatic therapy, massage and general exercise from 1/22/02 through 6/6/02. The ___ physician reviewer also indicated that the documentation provided did not show the patient's onset of symptoms, how the symptoms progressed or if they were new symptoms to this patient indicating the need for therapy beginning 1/22/02. The ___ physician reviewer noted that the follow up notes of 1/31/02 and 2/8/02 do not document any objective improvement in this patient's condition. The ___ physician reviewer also noted that as of 2/27/02 the patient refused to exercise. The ___ physician reviewer further noted that the patient was discharged from physical therapy on 3/11/02 secondary to expiration of physical therapy. The ___ physician reviewer noted that the patient restarted physical therapy on 5/20/02.

The ___ physician reviewer also noted that the exam documentation for 5/20/02 is incomplete and that the follow up note of 6/6/02 fails to provide objective information on this patient or his condition. The ___ physician reviewer explained that the patient had prior therapy. However, the ___ physician reviewer noted that there is no documentation provided regarding his response to this prior treatment. The ___ physician reviewer explained that a 2-week trial of physical therapy was appropriate for this patient's condition. The ___ physician reviewer also explained that without objective progress noted, further physical therapy would not be justified. Therefore, the ___ physician consultant concluded that the office visits, physical therapy and supplies from 1/22/02 through 2/4/02 were medically necessary to treat this patient's condition. However, the ___ physician consultant concluded that the office visits, physical therapy and supplies from 2/5/02 through 6/6/02 were not medically necessary to treat this patient's condition.

Sincerely,