

MDR Tracking Number: M5-03-1353-01

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, 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 the services found medically necessary exceeds the amount due for services not found medically necessary. Therefore, the Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** 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 disputed ultrasound and hot packs were found not medically necessary. The disputed office visits with manipulations, kinetic activities, therapeutic procedure, neuromuscular re-education, myofascial release, physical medicine treatment, data analysis, special reports and office visits were found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 9th day of April 2003.

Noel L. Beavers  
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 2/1/02 through 5/10/02.

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 9<sup>th</sup> day of April 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

April 7, 2003

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

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\_\_\_ 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

The patient in question was injured on his job with \_\_\_ when he was lifting a crate and lowered it to a dock, when he had a sudden onset of low back pain. He has been treated for the pain by \_\_\_ with chiropractic as well as rehabilitation efforts and ESI therapy was provided by \_\_\_ with 3 injections. Electrodiagnostic studies indicated that there was a radiculopathy at L5/S1.

#### DISPUTED SERVICES

The carrier has denied the medical necessity of office visits with manipulations, kinetic activities, therapeutic procedures, neuromuscular re-education, myofascial release,

physical medicine procedures, data analysis, special reports, non-electric heat pads, ultrasound and office visits from February 1, 2002 through May 10, 2002.

#### DECISION

The reviewer agrees with the prior adverse determination regarding ultrasound and hot packs.

The reviewer disagrees with the adverse determination regarding all other care rendered.

#### BASIS FOR THE DECISION

The patient was injured seriously and was responding to care, albeit slowly. The patient was treated conservatively and was treated with ESI therapy during the disputed period and he certainly needed treatment during that period of time with follow-up conservative care, which notes from the carrier agree were necessary. As a result, the active treatment program was reasonably performed in good faith by the treating doctor and would be considered medically necessary. However, passive care at this point was not reasonable and the hot packs with ultrasound were not appropriate.

\_\_\_ 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,