

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-03-3244.M5

MDR Tracking Number: M5-03-1367-01

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 exceed the amount due for the services found not 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 office visits and physical therapy for dates of service 7/31/02, 8/8/02, 8/12/02, 8/14/02, 8/19/02, 8/21/02, 8/26/02, 9/26/02, 9/30/02, 10/2/02, 10/7/02, 10/10/02, 10/14/02 and 10/16/02 were found to be medically necessary. The disputed office visits and physical therapy for dates of service 7/30/02, 8/1/02, 8/15/02, 8/20/02, 10/3/02, 10/8/02, 10/17/02 were found not medically necessary. Also, more than two units of aquatic therapy and two units of therapeutic procedures daily were found not medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 15th day of April 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

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 7/30/02 through 10/17/02.

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 15th day of April 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/nlb

April 11, 2003

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

MDR Tracking #: M5 03 1367 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

The patient in question was injured when he slipped and fell into a ditch while carrying some plywood. He had an immediate onset of low back pain, as well as pain in the left leg. Lumbar MRI in May of 2000 revealed a disc herniation at L4/5. CT of the lumbar spine in February of 2003 indicates TENS wires implanted at L1/2 as well as hardware

from a laminectomy that was performed in 2000. This dispute is over physical medicine rendered at ___ after a minor surgical procedure regarding the implantation of a spinal cord stimulator.

DISPUTED SERVICES

The carrier has denied medical necessity of office visits and physical therapy from July 31, 2002 through October 17, 2002.

DECISION

The reviewer agrees with the prior adverse determination regarding the dates of service 7/30, 8/1, 8/15, 8/20, 10/3, 10/8 and 10/17. Also, the reviewer finds that more than 2 units of aquatic therapy and more than 2 units of therapeutic procedures (97110) would not be medically necessary.

The reviewer disagrees with the prior adverse determination for all other disputed dates of service.

BASIS FOR THE DECISION

There is no indication that consecutive dates of treatment are either effective or reasonable on this case. While the patient had a history of significant low back pain and a surgical procedure, the major procedure did occur 2 years before this treatment was rendered. However, we must remember that a person is attached to this dispute and consider what is best for the patient. The patient apparently had a procedure in the lumbar spine for the implantation of a spinal stimulator, which does carry a certain amount of trauma. I do not believe that more than 2 units of therapeutic procedures or 2 units of aquatic therapy would likely be of benefit to this patient. Other than the listed objections to the treatment, I would find all other care to be reasonable on this case due to the patient's debilitated condition.

___ 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,