

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

SOAH DOCKET NO. 453-03-3650.M5

MDR Tracking Number: M5-03-1412-01

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 services found medically necessary exceed the amount for the 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 therapeutic exercises, brief office visits and aquatic therapy from 2/6/02 through 10/10/02 were found to be medically necessary. The massage from 8/21/02 through 10/10/02 was not medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 2nd day of May 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 2/6/02 through 10/10/02.

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 9th day of May 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/nlb

NOTICE OF INDEPENDENT REVIEW DECISION

April 23, 2003

Program Administrator
Medical Review Division
Texas Workers Compensation Commission
4000 South IH-35, MS 48
Austin, TX 78704-7491

MDR Tracking Number: M5-03-1412-01
IRO Certificate No.: 4326

Clinical History

This patient sustained a work-related injury on ___ when he fell while working on a crane. He twisted his left knee while striking his right knee against a wall. The patient complains of pain in the low back, pain and weakness in the right kneecap, and pain in the right knee. The patient underwent an arthroscopy of the left knee 08/24/01, discography at the L3-4 and L5-S1 levels on 03/01/01, surgery to his right knee on 03/18/02 and a L5-S1 decompression, discectomy and fusion with instrumentation on 05/20/02. He was under chiropractic care from 02/06/02 through 10/10/02.

Requested Service(s)

Chiropractic services from 02/06/02 through 10/10/02

Decision

It is determined that the therapeutic exercises, brief office visit, and aquatic therapy provided from the dates of 02/06/02 through 10/10/02 were medically necessary to treat this patient's condition. However, the use of massage in the treatment of the patient from 08/21/02 through 10/10/02 was not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain.

For several interventions and indications (e.g., thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. Reference: "Philadelphia Panel Evidence-Based Guidelines

on Selected Rehabilitation Interventions for Low Back Pain". Physical Therapy. 2001: 81:1641-1674.

The Agency for Health Care Policy and Research: Clinical Practice Guideline Number 14, "Acute Low Back Problems In Adults" indicates that "the use of physical agents and modalities in the treatment of acute low back problems is of insufficiently proven benefit to justify its cost". They did note that some patients

with acute low back problems appear to have temporary symptomatic relief with physical agents and modalities.

Therefore, the use of passive physical therapy modalities (hot/cold packs, electrical stimulation) is not indicated after the first 2-3 weeks of care.

The Royal College of General Practitioners indicates that, although commonly used for symptomatic relief, these passive modalities (ice, heat, short wave diathermy, massage, and ultrasound) do not appear to have any effect on clinical outcomes. Reference: Royal College of General Practitioners, Clinical Guidelines For The Management of Acute Low Back Pain, Review Date: December 2001.

The use of therapeutic exercises, brief office visit, and aquatic therapy provided from the dates of 02/06/02 through 10/10/02 were medically necessary to treat this patient's condition.

Haldeman et al indicate that it is beneficial to proceed to the rehabilitation phase of care as rapidly as possible to minimize dependence on passive forms of treatment/care and reaching the rehabilitation phase as rapidly as possible and minimizing dependence on passive treatment usually leads to the optimum result. Reference: Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993.

Konlian indicated that aquatic therapy is a viable rehabilitation alternative for the treatment of spinal pain and dysfunction. The unique physical properties of the water make it an ideal medium for the rehabilitation of low back injuries. Aquatic programs can be used in conjunction with a land-based program or as a sole treatment approach. Orthopedic specialists should consider aquatic rehabilitation in management of spinal injuries to enhance the injured patient's overall functional outcomes. Konlian C., "Aquatic therapy: making a wave in the treatment of low back injuries", Orthopedic Nursing 1999 Jan-Feb: 18(1): 11-8.

Therefore, the therapeutic exercises, brief office visit, and aquatic therapy provided from the dates of 02/06/02 through 10/10/02 were medically necessary. However, the use of massage in the treatment of the patient from 08/21/02 through 10/10/02 was not medically necessary.