

MDR Tracking Number: M5-03-1438-01

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 Medical Review Division has reviewed the IRO decision and determined, the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare and therefore, the **requestor did not prevail** in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 visit on 5/29/02 was found to be medically necessary. The office visits, physical therapy sessions, phonophoresis and phonophoresis supplies were not medically necessary. The respondent raised no other reasons for denying reimbursement for this office visit charge.

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 5/29/02 through 6/12/02 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 30<sup>th</sup> day of April 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

CRL/crl

NOTICE OF INDEPENDENT REVIEW DECISION

March 27, 2003

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

RE: MDR Tracking #: M5-03-1438-01  
IRO Certificate #: IRO 4326

The \_\_\_ 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 rendered 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.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

#### Clinical History

This patient sustained a work-related injury on \_\_\_ when he was lifting a roll of fabric weighing 60 to 80 pounds. The patient experienced sharp pain in his back radiating to his right upper leg and thigh. He also reported pain to the left elbow. An MRI of the lumbar spine performed on 01/11/99 revealed a moderate sized 4mm posterior central disc herniation at L5-S1 with a full thickness tear through the posterior central fibers of the annulus fibrosis, a mild to moderate sized 2-3mm posterior disc protrusion at L1-2, a mild 2mm annular disc bulge at L3-4 and mild disc desiccation at every level of the lumbar spine. While under the care of a chiropractor, the patient received office visits, physical therapy sessions in the form of aquatic therapy and therapeutic exercises, phonophoresis and phonophoresis supplies from 05/29/02 through 06/12/02.

#### Requested Service(s)

Office visits, physical therapy sessions, phonophoresis and phonophoresis supplies from 05/29/02 through 06/12/02.

#### Decision

It is determined that the office visit for re-assessment performed on 05/29/02 was medically necessary to treat this patient's condition. However, the office visits, physical therapy sessions, phonophoresis and phonophoresis supplies from 06/03/02 through 06/12/02 were not medically necessary.

#### Rationale/Basis for Decision

The reassessment performed on 05/29/02 was medically necessary for the assessment of the patient's work-related injury. The review of the medical records from the inception of care on 11/27/98 through 06/12/02 revealed little substantive change in his lumbar range of motion finding over the course of his treatment. The medical record documentation also demonstrated that the patient made substantial gains in his functional abilities and was returned to work at full duty by 2001. The medical records indicated that the patient was classified in the light physical demand level on his initial functional capacity evaluation (FCE) on 11/30/98. The FCE dated 01/14/99

indicated that the patient was functioning in the light physical demand level. The 04/14/99 FCE indicated that the patient was functioning in the heavy physical demand level for restricted work and the medium level for unrestricted work. The 05/22/01 FCE revealed that the patient was functioning at the heavy physical demand level for unrestricted duties.

The TWCC-73 Work Status Report dated 05/22/01 indicated that the patient was returned to work full duty without restrictions. The TWCC-73 Work Status Report issued on 05/29/02 indicated that the patient was released to full duty employment with no restrictions.

The resumption of passive therapy, aquatic therapy, and therapeutic exercises in the management of the patient's lower back pain was not medically necessary, as the patient was certified able to perform his job at full duty without restrictions. Aquatic therapy is used for rehabilitation in cases of spine injuries in which the doctor seeks to have the patient work out without weight bearing.

As the patient in this case was able to work at full duty with no restrictions as of 05/29/02, the subsequent aquatic therapy, therapeutic exercises, and phonophoresis with supplies were not medically necessary. Therefore, the office visit on 05/29/02 was medically necessary, while the office visits, physical therapy sessions, phonophoresis and phonophoresis supplies from 06/03/02 through 06/12/02 were not medically necessary.

Sincerely,