

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

**SOAH DOCKET NO. 453-03-3690.M5**

MDR Tracking Number: M5-03-1448-01

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 **or 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 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(r)(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 requestor submitted a letter of withdrawal for office visits and office supply from 2-11-02 through 3-22-02. The treatments/services rendered from 2-25-02 through 4-8-02 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these charges.

The above Findings and Decision is hereby issued this 19th day of May 2003.

Dee Z. Torres  
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 2-11-02 through 4-8-02 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 19th day of May 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dzt

April 15, 2003

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

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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

This patient was injured when she was riding a bicycle as a part of her job during a Mardi Gras celebration. She was caught in a trolley track and projected over the handlebars of the bicycle, causing her to land on her right shoulder and her head. The right shoulder was her primary point of injury, but she was wearing a helmet that protected her cranium.

2 days later she began treatment at the office of \_\_\_\_, who performed passive care initially and later began treating the patient with active care. MRI was negative for a frank pathology. The conservative care failed and she underwent surgery on April 9, 2002.

Arthroscopic intervention revealed a labral tear of the right shoulder. Designated doctor \_\_\_\_ found her to be at MMI on October 21, 2002 with 0% impairment.

#### DISPUTED SERVICES

The carrier has denied the medical necessity of office visits and therapeutic exercises from February 13, 2002 through April 8, 2002.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

The treating doctor utilized conservative care in attempting to rehabilitate this patient's shoulder injury. The protocol utilized by the doctor was very reasonable and indicated an honest attempt to get this patient back to work without a surgical intervention. The MRI was negative for a frank tear and at that point the treating doctor was of the presumption that this case was a sprain. While it was later found to be more serious, the treating doctor did everything he was supposed to do to get a fair and reasonable result from the existing treatment protocol. The treatment rendered fits well within the TCA Guidelines for Quality Assurance.

\_\_\_\_ 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,