

MDR Tracking Number: M5-03-1476-01

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 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 chiropractic services, office visits and physical therapy, were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these chiropractic service charges.

This Finding and Decision is hereby issued this 23<sup>rd</sup> day of May 2003.

Carol R. Lawrence  
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 2/12/02 through 6/13/02 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 23<sup>rd</sup> day of May 2003.

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

May 14, 2003

Re: MDR #: M5-03-1476-01  
IRO Certificate No.: 5055

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Certified in Chiropractic medicine.

Clinical History:

The patient is a 29-year-old male who sustained a work-related injury on \_\_\_\_. He bent and twisted to place a 30-pound box onto a stack and experienced a pop in his right shoulder and lumbar region. The patient has been treating with a chiropractor since 12/11/01. Physical therapy/chiropractic applications were applied from 02/12/02 through 06/13/02.

On 01/14/02 an MRI of the lumbar spine revealed a partial disk disccation at L5-S1, and a 2-3 mm disk protrusion without lateralization or mass effect on nerve roots. EMG/NCV neurodiagnostic testing on 02/06/02 showed a left peroneal motor neuropathy. Functional Capacity Evaluation (FCE) on 02/18/02 showed that the patient was capable of medium physical demands, but tertiary care options were necessitated.

A course of ESI's, discography study, and physical therapy applications was recommended on 05/30/02. Medical record provided showed that an intradiskal electrothermal procedure was performed at L5-S1 on 10/21/02.

Disputed Services:

Denial of physical therapy and chiropractic services performed from 02/12/02 through 06/13/02.

Decision:

The reviewer disagrees with the determination of the insurance carrier on this case. The services provided were medically necessary.

Rationale:

Medical records provided for review show that the provider activated a multi-disciplinary treatment algorithm that coincided with a course of aggressive active physical therapy options and culminated in the enrollment of the patient in a tertiary level of care.

The patient demonstrated a plausible opportunity to return to work, at a lessened physical capacity, without the need for surgical correction. The completion of a return-to-work (RTW) program like work conditioning and a progression through active, patient-

driven therapeutics was necessitated. The patient continued follow up and it was determined that he was not able to return to his work requirements.

Thus, surgical interventions were activated. Even though surgical progression was an aspect of the provider's treatment plan, he had a viable responsibility to guide the patient through active therapeutics, if it was plausible that the patient would not need surgical correction for his medical condition.

Therapies applied from 01/18/02 through 06/13/02 were appropriate and medically necessary to treat the patient's medical condition.

The aforementioned information has been taken from the following guidelines of clinical practice:

*Clinical Practice Guidelines for Chronic Non-Malignant Pain Syndrome Patients II: An Evidence-Based Approach.* J. Back Musculoskeletal Rehabil, 1999, Jan 1, 13: 47-58.

*Overview of Implementation of Outcome Assessment Case Management in the Clinical Practice.* Washington State Chiropractic Association; 2001, 54 p.

*Unremitting Low Back Pain, North American Spine Society Phase III Clinical Guidelines for Multi-Disciplinary Spine Care Specialists.* North American Spine Society; 2000, 96 p.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,