

MDR Tracking Number: M5-03-1490-01

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 office visits, therapeutic procedures, and massage from 10-18-02 through 11-05-02 were found to be medically necessary. The attended electrical stimulation and joint mobilization were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these services.

The above Findings and Decision are hereby issued this 12th 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 10-18-02 through 11-5-02 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 12th day of May 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dzt

April 25, 2003

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

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___ 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 this case was injured when he was moving a set of raisers into position and suffered an onset of pain in the right shoulder and mid back. As the pain continued to get worse, he sought care from ___ and ___. He was initially diagnosed with a shoulder sprain/strain and myalgia, later changed to a shoulder impingement syndrome. After completing his care, he returned to work but suffered an exacerbation on October 8, 2002 while trimming some bushes. Intensive care was rendered to include passive and active care on this injury by the treating doctor.

DISPUTED SERVICES

The carrier has denied the medical necessity of office visits and physical therapy from October 18, 2002 through November 5, 2002 as medically unnecessary.

DECISION

The reviewer disagrees with the prior adverse determination regarding office visits and therapeutic activities.

The reviewer agrees with the prior adverse determination for all other care rendered.

BASIS FOR THE DECISION

While it is certainly likely that this patient suffered an onset of pain from the old injury, I see no evidence that this was a new injury, but rather a setback from a previous injury. Active care was certainly warranted on this case, as were the attendant visits from the treating doctor. Passive treatment would not be a reasonable approach to a patient which is suffering from a chronic condition. Also, joint mobilization is a form of manipulation that is included in the basic service of the chiropractic doctor. The care rendered generally does not conform to existing guidelines, such as the Mercy Center Guidelines. However, the patient does deserve the benefit of the doubt on active care and I would approve the active treatment and office visits as reasonable for this case.

___ 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,