MDR Tracking Number: M5-03-1509-01

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 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 office visits, NCV studies, H/F reflex studies and work hardening were found to be 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 5/16/02 through 8/14/02.

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 2nd day of May 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/nlb

April 25, 2003

**NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-03-1509-01**

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ___ external review panel. The ___ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History
This case concerns a 49 year-old male who sustained a work related injury on ___. The patient reported that while at work he was performing a twisting movement when unloading a trailer and pushing a pallet. The patient was evaluated and treated by a chiropractor. The patient underwent an MRI on 5/3/02 that showed a 3-4 mm herniated disc at L3-4 and a 3mm disc herniation noted at L5-S1. This patient was evaluated by an orthopedic surgeon on 6/3/02 and a neurosurgeon on 10/29/02. The patient has been treated with conservative care that included oral pain medications and a work hardening program.

Requested Services
NCV studies, office visits, somatosensory testing, H/F reflex studies and work hardening from 5/16/02 through 8/14/02.

Decision
The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

Rationale/Basis for Decision
The ___ chiropractor reviewer noted that this case concerns a 49 year-old male who sustained a work related injury to his back on ___. The ___ chiropractor reviewer also noted that the diagnoses for this patient included herniated disc at the L3-4 and L5-S1 level. The ___ chiropractor reviewer further noted that the patient has been treated with conservative care that included oral pain medications and a work hardening program. The ___ chiropractor reviewer explained that the MRI and NCV are positive objective evidence of the patient's pain. The ___ physician reviewer also explained that the patient does not report radicular symptoms.

However, the ___ chiropractor reviewer indicated that there is evidence of trauma to the spine. The ___ chiropractor reviewer explained that this patient had undergone evaluations by a neurosurgeon and an orthopedic surgeon. The ___ chiropractor reviewer noted that both the neurosurgeon and the orthopedic surgeon suggested that the patient continue with conservative care. The ___ chiropractor reviewer explained that the care rendered to this patient by the chiropractor was appropriate. Therefore, the ___ chiropractor consultant concluded that the NCV studied, office visits, somatosensory testing, H/F reflex studies and work hardening from 5/16/02 through 8/14/02 were medically necessary to treat this patient's condition.

Sincerely,