

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 total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare; 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 TENS unit rental and the FCE from 2-12-02 through 6-21-02 and the office visit on 5-20-02 were found to be medically necessary. The office visits with manipulations, joint mobilization, myofascial release, manual traction and manual muscle testing from 2-12-02 through 6-21-02 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these services charges.

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 6-21-02 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 2nd day of July 2003.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

DZT/dzt

#### **NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** June 27, 2003

**RE: MDR Tracking #:** M5-03-1531-01  
**IRO Certificate #:** 5242

\_\_\_ 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 proposed 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 Chiropractic physician reviewer. The Chiropractic physician reviewer 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 case involves a claimant who was injured while on-the-job on \_\_\_. Allegedly, the claimant injured her low back when slipped and fell on her back. According to submitted documentation, the claimant was taken off work on 12/21/01 and received chiropractic treatment totaling 26 treatments under \_\_\_ from 01/02/2002 through 02/07/2002. Chiropractic treatment continued under \_\_\_ for an additional 26 treatments (plus one session for manual muscle testing and one session for a functional capacity evaluation) from 02/12/2002 through 06/21/2002. The claimant underwent a lumbar MRI study that revealed a 4mm herniated nucleus pulposus at L2/L3 and a 2mm herniated nucleus pulposus at L5/S1. The claimant also underwent two epidural steroid injections. The actual dates of the MRI and epidural steroid injections are not clear in the submitted documentation.

### **Requested Service(s)**

The medical necessity of chiropractic treatments and physical therapy rendered to the claimant from 02/12/2002 through 06/21/2002.

### **Decision**

Chiropractic and physical therapy treatments and procedures rendered from 02/12/2002 through 06/21/2002 consisted of 99213-MP exam/manipulation, 97265 joint mobilization, 97250 myofascial release, 97122 manual traction, 97110 therapeutic activities (4 units per visit), 97139TN a tens unit rental, 97750MT muscle testing, and 97750FC functional capacity evaluation. The tens unit rental dated 2/12/2002 and the functional capacity evaluation dated 06/21/2002 were medically reasonable and necessary. The office visits with manipulation, joint mobilization, myofascial release, manual traction, manual muscle testing, and therapeutic activities conducted from 02/12/2002 through 06/21/2002 were not medically reasonable or necessary.

### **Rationale/Basis for Decision**

Due to the claimant's subjective pain level being 7 out of 10 as of 02/12/2002, a tens unit rental was a reasonable approach to help the claimant manage her pain independently. The functional capacity evaluation conducted on 06/21/2002 was a reasonable approach to assess the claimant's functional status at that time.

The 13 office visits with manipulations (99213-MP) conducted from 02/12/2002 through 06/21/2002 were not necessary because the documentation indicated that prior to 02/12/2002 the claimant had already undergone 26 chiropractic treatments without any apparent objective improvement. Monthly office visits (99212) without any manipulation would have been perfectly adequate for managing the claimant while awaiting approval for a trial of epidural steroid injections.

The joint mobilization, myofascial release, and manual traction procedures conducted between 02/12/2002 and 06/21/2002 were not necessary because, again, the claimant had apparently already undergone 26 passive chiropractic/physiotherapy treatments without any objective improvement in her condition.

The billing history includes a manual muscle testing procedure that was apparently conducted and billed for on 02/19/02, but the submitted documentation for the 02/19/2002 office visit contains no information pertaining to this muscle testing procedure. The procedure therefore holds no medical necessity.

Finally, the therapeutic activities conducted for 4 units during each office visit between 02/12/2002 and 06/21/2002 were not medically necessary because the claimant continued to report subjective pain at 7 out of 10 as she had done since the onset of care. Active therapeutic exercises should be utilized to improve biomechanical strength and range of motion only after a patient's level of pain has been significantly reduced. The claimant's subjective pain never decreased, so the active therapeutic exercises should have never been conducted.