

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 fees due for the services found medically necessary do not exceed the fee for the services found not medically necessary. Therefore, the Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, in accordance with §133.308(q)(9), the Commission hereby **Declines to Order** the respondent to refund 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 and maximum medical improvement/impairment rating exam were found to be medically necessary. The daily physical therapy, range of motion testing and team conference were not medically necessary. The respondent raised no other reasons for denying reimbursement.

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 7/8/02 through 11/25/02.

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 2<sup>nd</sup> day of May 2003.

Noel L. Beavers  
Medical Dispute Resolution Officer  
Medical Review Division  
NLB/nlb

**NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** April 24, 2003

**Requester/ Respondent Address :** Rosalinda Lopez  
TWCC  
4000 South IH-35, MS-48  
Austin, Texas 78704-7491

**RE: MDR Tracking #:** M5-03-1583-01  
**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 an Orthopedic Surgeon physician reviewer who is board certified in Orthopedic Surgery. The Orthopedic Surgeon 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**

The claimant allegedly suffered a work related injury on \_\_\_ where she work at \_\_\_ and tripped over boxes. She fell, suffering an injury to her left ankle resulting in fractures and reportedly injured her right shoulder. She was treated for the ankle fracture which resolved and, despite conservative treatment for her shoulder consisting of physical therapy and Celebrex. She underwent a surgery for her shoulder problem on 10/23/02. There has been a dispute as to whether the shoulder was a compensable work related injury and the Workers' Compensation Board has ruled that it is compensable to the injury of \_\_\_. She underwent an acromioplasty and a debridement of a partial articular surface rotator cuff tendon tear and a distal clavicle resection. These surgeries were performed arthroscopically on 10/23/02. She subsequently underwent extensive physical therapy after surgery and has been declared to have reached maximum medical improvement on 11/25/02 with an 8% whole person impairment.

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

Office visits, physical therapy sessions, range of motion testing, team conference, required report and maximum medical improvement/impairment rating exam on 7/8/02 through 11/25/02.

### **Decision**

I disagree with the insurance carrier and find that the office visits and maximum medical improvement/impairment rating exam were medically necessary. I agree with the insurance carrier that daily physical therapy, range of motion testing, and team conference were not medically necessary.

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

It is felt the office visits were medically necessary and related to the work injury. It appears the claimant did have a problem with the shoulder that was demonstrated objectively at surgical inspection on 10/23/02. She subsequently underwent extensive physical therapy afterward. The treating surgeon had prescribed physical therapy to be performed on a daily basis for 4 weeks, specifically aimed at post operative modalities that are critical to maximizing the likelihood of a good result from this operation. It is this reviewer's opinion that this physical therapy is excessive. I perform this type of surgery on a frequent basis and have never found it medically necessary to have a patient undergo daily physical

therapy for 4 weeks after this type of surgery. The therapy consisted of hot packs, therapeutic exercise, electrical muscle stimulation and deep massage. It is felt the heat packs could easily have been applied in a home setting. The exercise also could have been done in a home setting after the patient had been appropriately trained to do the exercises. It is felt the benefit of electrical stimulation and massage after this surgical procedure is very negligible and certainly not warranted on a daily basis. It would have been reasonable to have provided physical therapy for 2-3 times per week for 3 weeks to work the patient carefully into a supervised exercise program after which it would be reasonable for the patient to have done these exercises on an independent basis. It possibly would have been reasonable to have followed up 1-2 times per week for an additional 3-4 weeks to make sure the patient was doing the exercises appropriately and having no problems with them. Again, it is felt by this reviewer that exercises such as this with the other therapy modalities on a daily basis after the specific arthroscopic surgery was excessive and not medically necessary. It is felt that the therapy prior to surgery was appropriate and medically necessary. It was needed to hopefully affect resolution of the problem. In this case it did not, thus necessitating the surgery. It is felt the maximum medical improvement evaluation was appropriate and medically necessary. The question concerning the team conference relates to one conference in these records dated 11/13/02. It is unclear the purpose of this medical conference in this reviewer's opinion. This claimant was undergoing physical therapy and did have periodic visits with the attending physician who inevitably was getting reports from the therapist. It is felt this medical conference was not medically necessary based on the records enclosed.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 24<sup>th</sup> day of April 2003.