

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION:**

**SOAH DOCKET NO. 453-03-4134.M5**

MDR Tracking Number: M5-03-1612-01

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 requestor submitted a medical dispute resolution request on 2/20/03 and was received in the Medical Dispute Resolution on 2/20/03. The disputed dates of service 1/23/02 through 2/13/02 are not within the one year jurisdiction in accordance with Rule 133.308(e)(1) and will be excluded from this Finding and Decision.

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 treatment from 5/23/02 through 8/14/02, with the exception of artic ice deep heat ointment on each treatment, was found to be medically necessary. The chiropractic treatment from 2/21/02 through 5/14/02 was not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these chiropractic treatment charges.

This Finding and Decision is hereby issued this 24<sup>th</sup> day of June 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 2/21/02 through 8/14/02 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 24<sup>th</sup> day of June 2003.

David R. Martinez, Manager  
Medical Dispute Resolution  
Medical Review Division

DRM/crl

June 12, 2003,  
Amended June 16, 2003

MDR Tracking #: M5-03-1612-01  
IRO #: 5251

\_\_\_ 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.

The independent review was performed by a matched peer with the treating doctor. 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

\_\_\_ wuffered a lifting injury to his lower back on \_\_\_. An MRI demonstrated a herniated disc at the L5/S1 level. An EMG demonstrated a radiculopathy of the left L5 and S1 nerve. On 4/22/02 the patient had a left L5/S1 laminectomy and discectomy for nerve

root compression. Beginning on 5/23/02, the patient began a three-month rehabilitation program with \_\_\_\_.

#### DISPUTED SERVICES

Under dispute is the medical necessity of chiropractic treatments that were rendered from 2/21/02 through 8/14/02.

#### DECISION

The reviewer both agrees and disagrees with the prior adverse determination.

The reviewer finds that all care was reasonable and necessary from 5/23/02 through 8/14/02, with the exception of the application of artic ice deep heat ointment on each treatment.

Treatment provided prior to 5/23/02 was found not to be medically necessary.

#### BASIS FOR THE DECISION

Documentation provided demonstrated a continual improvement objectively in this patient's condition during his three-month post-surgical rehabilitation program. The reviewer finds that all care was reasonable and necessary from 5/23/02 through 8/14/02, with the exception of the application of artic ice deep heat ointment on each treatment.

There were no treatment notes provided for dates of service prior to 5/23/02, therefore these treatments are deemed not medically necessary.

\_\_\_\_ 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 \_\_\_\_, dba \_\_\_\_, 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,