

MDR Tracking Number: M5-03-1632-01

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 aquatic therapy, office visits, physical medicine treatment, unusual treatment and therapeutic procedures were found to be 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 3/5/02 through 5/23/02.

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 19th day of May 2003.

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

May 8, 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

This patient was injured on the job in ___. She sustained a low back injury. Records indicate that she had extensive physical medicine for about 8 weeks in 2000. Although no test results are included the dispute position statement refers to testing as having been positive and she was found to be a candidate for lumbar 360 fusion surgery, which was performed in November of 2001. She was referred to the requestor for post-surgical physical medicine after a recovery period and progressed into land based active care after 9 weeks of aquatic care. After the transition, she was put on home exercise therapy, as well, but that therapy failed and supervised treatment was reinstated. The carrier's reviewer, ___, stated that 1 month of care was reasonable following a 360 fusion and that further care was not necessary in this case.

DISPUTED SERVICES

The carrier has denied the medical necessity of aquatic therapy, office visits, physical medicine treatment and unusual travel from March 5, 2002 through May 23, 2002.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The treating PT on this case delivered care at the direction of the treating doctor, ___, which was certainly within every treatment protocol available. A 360 fusion is an extremely invasive procedure which very serious effects on the lumbar spine. The fact that the therapy on this case was limited to the amount that is disputed indicates that the requestor was attempting to limit the care to that which is necessary. The care was rendered in good faith and the records indicate a reason to believe the patient was progressing. The carrier's peer reviewer gave no indication of how he came to the conclusion that a 360 fusion would only need 4 weeks of rehabilitation.

Records clearly are consistent with reasonable and necessary care on this case and I would find that all care rendered should be considered as such.

___ 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,