

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, the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare and 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 office visits twice a month were found to be medically necessary. The remaining office visits and treatment (including passive and active modalities) were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these office visit 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 3/18/02 through 8/21/02 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 6<sup>th</sup> day of May 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

#### NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** May 6, 2003

**RE: MDR Tracking #:** M5-03-1730-01  
**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**

According to the extensive report supplied by the treating physician, it appears that the claimant injured his back while walking up stairs at his job on \_\_\_\_. The claimant reported that he felt pain in his low back, but his pain continued to increase over the next several hours. The claimant went to \_\_\_\_ and was treated with medications. The following day the claimant went to see the chiropractor for evaluation. A MRI was performed on 11/27/2001, which revealed a protrusion at L2-3, L3-4 and at L5-S1. The claimant began chiropractic therapy. It was also documented that there were compensability issues, which were resolved by a benefit review and later again by a judge. Passive and active treatment methods were utilized on the claimant. On 06/26/2002, the doctor performed a discogram. Then, on 08/22/2002, the claimant underwent lumbar surgery at multiple levels. Another doctor performed the surgery and reported that the claimant would not be able to function at his normal job. The claimant eventually completed a work hardening program and returned to work full duty.

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

The medical necessity of the outpatient services including chiropractic treatments and services rendered between 03/28/2002 – 08/21/02.

### **Decision**

I disagree with the insurance company and agree with the treating doctor that office visits twice a month were medically necessary. I agree with the insurance company that the remainder of the treatment including passive and active modalities was not medically necessary.

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

The documentation supplied supports that the claimant had a compensable injury on \_\_\_\_. Conservative care was appropriate for the initial 4 months, but since the claimant was not improving significantly, there was no documentation supporting ongoing passive and active care. The report submitted by a doctor revealed some of the methods in which he was treating the claimant, but this still failed to support his treatment plan. The appropriate referral would be to an orthopedic specialist for another opinion. The claimant eventually was referred for another opinion and the claimant underwent surgery. Since there were issues getting the claimant his needed care, office visits twice a month would be necessary for referrals.