

MDR Tracking Number: M5-03-1733-01

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 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(r)(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 therapeutic procedures and office visits from 11-25-02 through 1-31-03 were found to be medically necessary. The myofascial release, electrical stimulation, ultrasound, and hot/cold packs from 11-25-02 through 1-31-03 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 11-25-02 through 1-31-03 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 3rd day of June 2003.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division
DZT/dzt

May 6, 2003

REVISED

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 his job on ___ when he was working as a truck driver and lifted a drill tool, weighing in excess of 100 pounds, causing a very intense pain immediately in his low back. Previous history included a fracture of coccyx. MRI revealed a bulge at L4/5 and a protrusion at L5/S1. The patient was treated not only with conservative care by the treating doctor, but he was referred to ___ for advanced care to include ESI therapy. A peer review was performed by ___ for PRI at the request of the carrier. He recommended up to 24 sessions of PT and no care after 11/19/2002. A follow-up review was performed by ___, who stated that no post-injection therapy is necessary.

DISPUTED SERVICES

The carrier has denied office visits and physical medicine services from November 25, 2002 through January 31, 2003.

DECISION

The reviewer agrees with the prior adverse determination regarding myofascial release, electrical stimulation, ultrasound and hot/cold packs.

The reviewer disagrees with the prior adverse determination regarding all other modalities of treatment and office visits.

BASIS FOR THE DECISION

The passive treatments rendered are not documented in the notes as being of benefit to this patient. There is no rationale stated for this patient to be receiving this treatment this far after the initial date of injury. While there is documentation of ESI therapy, there is no reasoning given in the requestor's notes as to why such treatment would be considered necessary, even after an injection.

With regard to the office visits and physical medicine treatments, the documentation was reasonably good enough to allow for the reviewer to see some progress in this patient's care. The retrospective review for the carrier used 20/20 hindsight as a basis for discussing medical necessity. The patient has a condition which does respond to physical medicine under normal conditions. This patient was responding to the treatment on some level and the provider is obliged to perform treatment to get the patient back to work. The provider rendered the most conservative care available and with the exception of the passive care, I would think this is reasonable and necessary for the patient's condition.

___ 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,