MDR Tracking Number: M5-03-1852-01

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(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor $650.00** 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 physical treatment services, including neuromuscular re-education, myofascial release, therapeutic activities, electric stimulation therapy, hot/cold packs, were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these physical treatment service charges.

This Finding and Decision is hereby issued this 15th day of July 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 8/19/02 through 9/6/02 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 15th day of July 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/crl

July 11, 2003

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-03-1852-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. This physician is a board certified physiatrist. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History
This case concerns a 31 year-old male who sustained a work related injury on ___. The patient is status post right L4-5 microdiscectomy on 9/10/01. The patient has been treated with pain management and physical therapy post surgery. The patient attended physical therapy post surgery due to complaints of continued back pain. Therapy services consisted of 9 sessions from 8/19/02 through 9/6/02.

Requested Services
Physical treatment services rendered from 8/19/02 through 9/6/02.

Decision
The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

Rationale/Basis for Decision
The ___ physician reviewer noted that this case concerns a 31 year-old male who sustained a work related injury to his back on ___. The ___ physician reviewer also noted that the patient has undergone a L4-5 microdiscectomy on 9/10/01. The ___ physician reviewer further noted that this patient has been treated with physical therapy post surgery from 8/19/02 through 9/6/02. The ___ physician reviewer indicated that this patient is almost one-year post discectomy still with persistent pain, limited range of motion in the lumbar spine and with inability/difficulty in performing activities of daily living. The ___ physician reviewer noted that according a physical therapy evaluation, the patient was experiencing decreased range of motion in the lumbar sacral spine, pain, weakness in the left and some weakness in the right lower extremity. The ___ physician reviewer also noted that the patient began physical therapy with exercises, soft tissue mobilization and modalities. The ___ physician reviewer explained that the physical therapy

note of 9/6/02 indicated that there was minimal improvement in the lumbar sacral spine range of motion and no change in the patient's pain. However, the ___ physician reviewer also explained that although there was minimal improvement in the patient's condition, the trial treatment with physical therapy was medically necessary to attempt to improve this patient's functional level. The ___ physician reviewer further noted that the attempted treatment trial is standard accepted clinical practice. Therefore, the ___ physician consultant concluded that the physical therapy treatments and services from 8/19/02 through 9/6/02 were medically necessary to treat this patient's condition.

Sincerely,