

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

**SOAH DOCKET NO. 453-03-4083.M5**

MDR Tracking Number: M5-03-1859-01

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 **or 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(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 treatment/services rendered on 8-26-02 through 1-17-03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these charges.

The above Findings and Decision are hereby issued this 23<sup>rd</sup> day of June 2003.

Dee Z. Torres  
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 8-26-02 through 1-17-03 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 23<sup>rd</sup> day of June 2003.

David R. Martinez, Manager  
Medical Dispute Resolution  
Medical Review Division  
DZT/dzt

June 18, 2003

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

MDR Tracking #: M5-03-1859-01  
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

\_\_\_ was suffered a work-related injury on \_\_\_. An MRI dated 7/29/02 revealed disc herniations of 4-5 mm at L4-5, 5 mm at L3-4, 3 mm disc protrusion at L2-3, 2 mm protrusion at L1-2. Thecal sac compression and mild to moderate stenosis was noted at L2-3 through L4-5 with a flattening of the thecal sac at L1-2. Narrowing was noted in the L5-S1 facets.

The carrier has denied treatments from 8/26/02 through 1/17/03 based on peer review (which was not included for review). A Designated Doctor exam on dated 10/24/02 stated that the patient was not at MMI. Referral Neurosurgeon \_\_\_ believes patient is a candidate for spinal surgery, but also recommends epidural steroid injections with lysis of adhesions.

#### DISPUTED SERVICES

Under dispute is the medical necessity of treatment and services rendered from 8/26/02 through 1/17/03.

#### DECISION

The reviewer disagrees with the prior adverse determination.

### BASIS FOR THE DECISION

This patient has clearly demonstrable pathology noted at multiple levels, as documented by the MRI performed on 7/29/02. The carrier has disputed treatment for this patient based on peer review which was not made available for review. The treating doctor sent the patient for Neurosurgical consultation/evaluation and the referral doctor does find that patient is a likely candidate for surgical intervention. This patient's Designated Doctor finds that patient is not at MMI and finds the patient's anticipated MMI date at 6/25/2004. There is significant objective evidence of injury, a neurosurgical recommendation for spinal surgery with a recommendation for trial of ESI before surgical intervention, along with Designated Doctor exam finding that the patient is not at MMI. Medical necessity for ongoing treatment has been established and therefore these procedures should be allowed as 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 \_\_\_, 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,