

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

**SOAH DOCKET NO. 453-03-3998.M5**

MDR Tracking Number: M5-03-1890-01

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, 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 treatment/services on 4/2/02 and 4/3/02 were found to be medically necessary. The treatment/services rendered from 5/15/02 through 6/20/02 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 4/2/02 through 6/20/02 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 17<sup>th</sup> day of June 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

CRL/cl

**IRO Certificate #4599**

**NOTICE OF INDEPENDENT REVIEW DECISION**

June 6, 2003

**Re: IRO Case # M5-03-1890-01**

Texas Worker's Compensation Commission:

\_\_\_ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to \_\_\_ for an independent review. \_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, \_\_\_ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery. He or she has signed a certification statement attesting 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 referral to \_\_\_ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the \_\_\_ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient is a 48-year-old female who on \_\_\_ developed back pain after slipping on a wet floor. The pain persisted despite physical therapy and chiropractic treatments. On 8/30/01 a surgical procedure was performed on the lumbar spine consisting of postereolumbar interbody fusions along with postereolateral fusion with instrumentation. The patient's pain continued post operatively despite chiropractic care and rehabilitation measures. An MRI on 4/5/02 showed a strong potential of a left-sided cage extrusion, possibly causing L5 nerve root compression. Reoperation with removal of the hardware and re-exploration of the fusion was considered at the time. The patient, however, did not want another major

surgical procedure. Therefore injections and therapeutic measures were instituted without benefit. The patient finally had an operative procedure nine months after it was originally thought indicated, on 3/6/03.

Requested Service(s)

Chiropractic treatments 4/2/02 – 6/20/02

Decision

I disagree with the carrier's decision to deny the requested treatment on 4/2/02 and 4/3/02.

I agree with the carrier's decision to deny the requested treatment 5/15/02-6/20/02.

Rationale

The treatment pursued in April 2002 was reasonable because there was no distinct diagnosis by MRI that indicated that something else needed to be done. Once that diagnostic test was performed and the recommendation for surgery was made it was not reasonable to pursue the therapeutic measures in dispute. Because of the patient's reluctance to undergo surgery, the surgery was not carried out for nine months. Be that as it may, all of the treatment in dispute after 4/5/02 was medically unnecessary. Medication, during that nine-month period before surgery, however, for symptomatic relief was medically necessary.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,

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