

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

**SOAH DOCKET NO. 453-03-4518.M5**

MDR Tracking Number: M5-03-2074-01

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 \$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 office visits and physical therapy from 5/16/02 through 8/2/02 were found to be medically necessary. The office visits and physical therapy from 8/2/02 through 10/10/02 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these office visits and physical therapy charges.

This Finding and Decision is hereby issued this 9<sup>th</sup> 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 5/16/02 through 10/10/02 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 9<sup>th</sup> day of July 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/crl

July 3, 2003

MDR #: M5-03-2074-01  
IRO#: 5055

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Certified in Chiropractic Medicine.

Clinical History:

This patient is a 58-year-old male who was involved in a work-related accident on \_\_\_ that resulted in an injury to the cervical, thoracic, and lumbar region. Chiropractic care was initiated on 05/14/02. Functional Capacity Evaluation was performed on 08/02/02, 09/02/02, and on 10/01/02. He participated in a course of chiropractic/physical therapy applications from 05/16/02 through 10/10/02.

Disputed Services:

Office visits and physical therapy from 05/16/02 through 10/10/02.

Decision:

The reviewer partially agrees with the determination of the insurance carrier. The reviewer is of the opinion that services rendered from 05/16/02 through 08/02/02 were medically necessary. The services rendered from 08/06/02 through 10/10/02 were not medically necessary to treat this patient's medical condition.

Rationale:

The records provided for review do not reflect MR imaging, needle

EMG neurodiagnostics, and/or referrals to additional medical providers. It is not clear from the medical record that the patient had any pathology that could be definitively classified as a radiculopathy in the cervical region. The injury mechanism described does reveal the presence of soft tissue injury.

In treating soft tissue injury, it is appropriate to engage in physical therapy applications so that the patient will be readily able to engage in activities of daily living. This injury warrants an 8-10 week trial of rehabilitative therapies with an active patient-driven focus. All clinically supervised rehabilitation applications must be followed by an equally aggressive home rehabilitation program. Following the completion of initial chiropractic/physical therapy applications, the patient engaged in a FCE on 08/02/02, in which physical limitations were identified, including limitations in muscle strength and endurance. Treatment notes prior to this evaluation indicate that the patient had significant psychological factors that were made evident in the 07/23/02 treatment record.

Following the 08/02/02 FCE, the patient was qualified and approved for upper-level therapeutics (work hardening). It is at this point that the patient's utilization of passive therapeutics, like 99213-MP, should have ceased. It was clear from the 07/23/02 treatment record, and from the 08/02/02 FCE, that the patient was not responsive with primary-level therapeutics. Services rendered from 05/16/02 through 08/02/02 were medically necessary to treat this patient's condition.

Services with continued passive therapeutic utilization beyond 08/02/02 were not medically necessary to treat this patient's condition due to the need for utilization of upper-level therapeutics, such as work hardening.

Clinical Guidelines and References:

*Guidelines for Psychiatric and Psychological Evaluation of Injured or Chronically Disabled Workers.* Washington State Department of Labor and Industries; 1999, Jun, 10 p.

*Overview of Implementation of Outcome Assessment Case Management in the Clinical Practice.* Washington State Chiropractic Association; 2001, 54 p.

*Unremitting Low Back Pain, North American Spine Society Phase III Clinical Guidelines for Multi-Disciplinary Spine Care Specialists.* North American Spine Society; 2000, 96 p.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,