

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

SOAH DOCKET NO. 453-03-4015.M5

MDR Tracking Number: M5-03-2100-01

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the disputed services were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that medical necessity was the only issue to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 10-24-02 through 12-23-02 is denied and the Division declines to issue an Order in this dispute. The respondent submitted an EOB showing payment was made for disputed date of service 12-30-02.

This Decision is hereby issued this 19th day of June 2003.

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

June 17, 2003

MDR Tracking Number: M5-03-2100-01
IRO Certificate # 5259

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___

CLINICAL HISTORY

___ was injured in a work related accident whack occurred on ___. On 4/22/02 ___ sought treatment from ___, a chiropractor, who initiated a trial of care. When this trial of care failed to relieve ___'s discomfort, ___ referred him out for a medical examination with ___. ___ recommended a different course of therapy and an MRI. ___'s condition failed to improve with good conservative care and in fact he claimed at times he was getting worse. Ultimately his condition was determined to be surgical due to a rotator cuff tear.

REQUESTED SERVICE (S)

Myofacial release, joint mobilization, kinetic activities, physical performance test, electrical stimulator, office visits, therapeutic procedure

DECISION

Denial is upheld as treatment not medically necessary. According to current chiropractic treatment standards, injuries of this nature justify a trial of chiropractic care. A trial of chiropractic care consists of two (2) weeks of treatment in which time documented improvement should be noted. If there is no improvement of significance, and additional trial of two (2) weeks with a different procedure is warranted. When a four (4) week trial of care failed, ___ appropriately referred ___ out for a second opinion from ___ who on 5/29/02 found ___ unchanged and, in fact, worsened. ___ recommended a change in therapy with ___ and an MRI. Later, ___'s condition was found to be surgical in nature and this became the primary treatment need. ___ treatment notes never reflect and acceptance of change in the patient's condition.

RATIONALE/BASIS FOR DECISION

There is evidence of injury to the C5 nerve and possible cervical involvement. ___ noticed a positive valsalva sign, increased pain upon coughing.) However, the fact still remains that a four (4) week trial of conservative care had failed to relieve ___'s condition and he was actually worsening (posterior deltoid atrophy), as reported by ___ on 10/15/02, post trauma.

Further, ___ post surgical treatment notes indicate significant recovery, and no mention is made of continuing C5 neuropathy, indicating the condition was resolving.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing, and it must be received by the TWCC Chief

Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3)

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 18th day of June 2003.