

MDR Tracking Number: M5-03-2138-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General 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 dispute was received on 4-28-02.

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 not the only issue** to be resolved. The requestor submitted a withdrawal letter on disputed dates of service 5-13-02 through 5-28-02. The office visits; joint mobilization, myofascial release, hot/cold packs, electrical stimulation, ultrasound, massage and whirlpool therapy, and special report from 6-4-02 through 9-18-02 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The above Findings and Decision are hereby issued this 29th day of October 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 6-4-02 through 9-18-02 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 29th day of October 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

AMENDED LETTER
NOTE: Dates of Service

July 2, 2003

MDR Tracking #: M5-03-2138-01
IRO Certificate #: IRO 4326

The ___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___'s health care professional has signed a certification statement stating 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 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 this case.

Clinical History

This patient sustained an injury to her back on ___ while trying to pull open a stuck filing cabinet. She yanked and twisted, causing pain in her mid thoracic spine and under the left scapula. A cervical MRI from 04/16/02 revealed a protrusion at C5-6.

Requested Service(s)

Office visits, joint mobilization, ultrasound therapy, myofascial release, hot or cold packs, massage therapy, whirlpool therapy, and special reports from 06/04/02 through 09/18/02

Decision

It is determined that the office visits, joint mobilization, ultrasound therapy, myofascial release, hot or cold packs, massage therapy, whirlpool therapy, and special reports from 06/04/02 through 09/18/02 were medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The provider implemented chiropractic/physical therapy applications to the cervical and upper thoracic spines following approval from the TWCC on 12/20/01. Diagnostic imaging and surgical referrals were activated in a timely fashion.

The patient's claim had been halted from any forward progression for over one year due to conflicts with the carrier, even though the TWCC believed the preponderance of medical evidence showed the patient's ___ injury did include the cervical region.

One year of atrophy, pain, and psychosocial factors will have altered this patient's functional progression. Adjustments had to be made in the treatment plan to compensate for this time without progressive therapies.

The patient was a surgical candidate, after failing with a course of conservative therapeutics. The course of conservative therapeutics was slowed due to chronicity of the injury. Review of the medical documentation does not fully depict the rationale for denial of the provider's treatment from 06/04/02 through 09/18/02. The provider activated appropriate diagnostic testing, activated the most appropriate referrals, and continued to restore patient function. It is not likely that this slow process could have been altered in a more expeditious manner without possibly causing further deleterious effects in the patient's level of functioning. Therefore, it is determined that the office visits, joint mobilization, ultrasound therapy, myofascial release, hot or cold packs, massage therapy, whirlpool therapy, and special reports from 06/04/02 through 09/18/02 were medically necessary.

The aforementioned information has been taken from the following guidelines of clinical practice and clinical references:

- *Clinical practice guidelines for chronic, non-malignant pain syndrome patients II: An evidence-based approach.* J Back Musculoskeletal Rehabil 1999 Jan 1; 13:47-58
- *Herniated disc. In: North American Spine Society phase III clinical guidelines for multidisciplinary spine care specialists.* North American Spine Society (NASS); 2000 104p.

Sincerely,