

MDR Tracking Number: M5-03-2254-01

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. This dispute was received on 01-14-02.

The IRO reviewed physical therapy sessions, office visits, required reports, DME, and analysis of information rendered from 04-24-02 through 07-05-02 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity for physical therapy sessions, office visits, required reports, DME, and analysis of information. 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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On September 10, 2003, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice. In accordance with the outcome of the Benefit Review Conference on 01-27-03 all R denials will be reviewed per Medical Fee Guidelines.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
07-05-02	99080-73	\$15.00	\$0.00	R	\$15.00	TWCC Rule 133.2(c)	Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-08-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service. Recommended Reimbursement \$256.00

07-09-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-10-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-11-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-12-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-15-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-16-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$ 28.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-17-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$ 28.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-01-02	99080	\$50.00	\$0.00	R	DOP		Soap notes confirm delivery of service Recommended Reimbursement \$50.00
07-19-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00

	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-22-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-23-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-24-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-26-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-29-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
07-31-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
08-01-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00
	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
0/8-02-02	97545	\$128.00	\$0.00	R	\$128.00	MFG MGR (II)(C)&(E)	Soap notes confirm delivery of service Recommended Reimbursement \$128.00

	97546 (4 units)	\$256.00	\$0.00	R	\$64.00		Soap notes confirm delivery of service Recommended Reimbursement \$256.00
TOTAL		\$6593.00					The requestor is entitled to reimbursement of \$ 6593.00

This Decision is hereby issued this 6<sup>th</sup> day of February 2004.

Georgina Rodriguez  
 Medical Dispute Resolution Officer  
 Medical Review Division

**ORDER.**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for dates of service 04-24-02 through 08-02-02 in this dispute.

This Order is hereby issued this 6<sup>th</sup> day of February 2004.

Roy Lewis, Supervisor  
 Medical Dispute Resolution  
 Medical Review Division

September 5, 2003

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

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 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

The patient was injured on \_\_\_ when he was carrying a box which weighed 80-100 pounds while working as a delivery driver. He came into contact with a wall and almost dropped the box. While attempting to not drop the box, he apparently injured his low back and had an immediate onset of pain. He initially was seen at \_\_\_ and was diagnosed with a lumbar radiculopathy. He was prescribed medication and returned to work light duty. The patient then went to \_\_\_, where he was treated beginning on April 23, 2002. Treatment consisted of active and passive therapy along with chiropractic. MRI revealed a protrusion at L4/5 and electrodiagnostic studies confirmed the likely presence of a radiculopathy. A peer review was performed by \_\_\_, who stated that passive care should not exceed 2 weeks and that any in excess of that amount was medically unnecessary due to its inability to help the patient make significant improvement.

#### DISPUTED SERVICES

Under dispute is the medical necessity of physical therapy sessions, office visits, required reports, DME, and analysis of information from 4/24/02 through 7/12/02

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

There is little argument that this patient had indeed suffered a serious low back injury with the protrusion and radiculopathy being agreed on by all parties. The carrier's reviewer believes that more than two weeks of passive care is unreasonable, but the reviewer finds documentation to indicate that this patient benefited from the palliative care for an extended time due to the seriousness of his injury. The treating doctor did get this patient active in a timely fashion, especially considering the seriousness of the injury. The patient progressed throughout the treatment program and the subjective complaints reflected the appropriate nature of the program. Disc injuries are generally slow to respond, but the treating doctor got the patient to MMI in slightly over 3 months of the initiation of treatment. This treatment program, while not in accordance with the beliefs of some in the medical community, did produce favorable results and the patient reached a timely MMI. As a result, the reviewer finds that the program is medically reasonable and 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,