

MDR Tracking Number: M5-03-2289-01

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 02-04-03. Date of service 8-4-02 was withdrawn from the dispute on 3-11-04 by \_\_\_\_.

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 \$650.00** 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 aquatic therapy, office visits, neuromuscular re-education, gait training, kinetic activities and massage therapy were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision are hereby issued this 15<sup>th</sup> day of March 2004.

Debra L. Hewitt  
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 08-02-02 through 09-05-02 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 15<sup>th</sup> day of March 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

**IRO Certificate #4599**

**NOTICE OF INDEPENDENT REVIEW DECISION**

August 10, 2003

**Re: IRO Case # M5-03-2289-01**

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, Rule133.308 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 33-year-old male who on \_\_\_ tripped and fell. He developed neck, back and some thoracic pain. The thoracic and neck pain soon became a minor part of the patient's discomfort. Despite physical therapy and medications, the back pain persisted and was associated with right lower extremity discomfort. He patient had numbness and tingling on the lateral side of the left foot. Straight leg raising was negative. An MRI on 7/5/02 showed degenerative disk disease at L5-S1 with severe posterior element and anterior spine element changes that suggested the potential of a surgical procedure being necessary in dealing with the patient's persistent discomfort. Physical therapy could not be pursued very actively because of the discomfort it caused. The patient did not wish to undergo surgery. According to two examiners, the patient was thought to be a candidate for aquatic therapy to improve his condition with non weight-bearing exercises. The improvement could then lead to a work hardening program to hopefully return the patient to work. The patient reportedly returned to work full duty on 11/1/02.

### Requested Service(s)

Aquatic therapy, office visits, neuromuscular reeducation, gait training, kinetic activities, massage, 8/2/02-9/5/02

### Decision

I disagree with the carrier's decision to deny the requested treatment.

### Rationale

The sequence of therapy outlined above led to circumstances that prevented a more costly major surgical procedure that would have required a longer hospital stay than most surgical procedures.

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

Sincerely,