

MDR Tracking Number: M5-03-2457-01

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 4-23-03.

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 the only issue** to be resolved. The office visits and therapeutic procedures/exercises were found to be medically necessary. The myofascial release and joint mobilization were not 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 10th day of December 2003.

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 04-05-02 through 08-13-02 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 10th day of December 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

December 5, 2003

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-03-2457-01
IRO Certificate No.: 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.

NOTE: The records provided to ___ contained conflicting dates of injury. One form TWCC-60 stated ___, another TWCC-60 stated ___; however, all the medical records provided stated a DOI of ___. The reviewer's report was dictated based on the ___ DOI as contained in the records provided for review.

Clinical History:

According to the medical records provided for review, this male claimant was injured on ___. Initially he was receiving only passive care three times a week. In addition, he had three caudal lumbar ESI's. Additional diagnostic testing in the form of MRI and needle EMG revealed some positive findings. The patient apparently changed treating doctors, and additional treatment was rendered.

Disputed Services:

Physical medicine services and office visits for the following dates in 2002: 04/23, 04/24, 04/26, 04/29, 05/01, 05/03, 05/06, 06/10, 06/13, 05/14, 05/17, 05/20, 05/24, 05/30, 07/12, 07/24, 08/27, and 08/13.

Per instruction from TWCC, the dates of service 04/05/02, 04/09/02, 04/12/02 and 04/15/02 listed on the Table of Disputed Services were not to be reviewed as these DOS are untimely and out of TWCC's jurisdiction.

Decision:

The reviewer partially agrees with the determination of the insurance carrier and is of the opinion that all office visits, therapeutic procedures, and therapeutic exercises were medically necessary. All other services performed during those dates, myofascial release and joint mobilization, were not medically necessary in this case.

Rationale:

There are no national treatment guidelines that allow for a continuation of ongoing passive therapy modalities after the initial one-to-three months of treatment. However, it is reasonable, usual, customary and medically necessary for the use of active therapy in an injury of this nature.

Therefore, it was necessary for this patient to receive office visits, therapeutic procedures, and therapeutic exercises as a direct result of this patient's on-the-job injury. The office visits are utilized to case-manage and render necessary evaluation and treatment of injuries. The therapeutic procedures and exercises are necessary due to this patient's de-conditioned status. There was information in the records indicating the patient was trying to progress into a work hardening program. However, additional information confirming or denying a work hardening program was unavailable.

According to Texas Labor Code 408:021(a), an employee is entitled to the care reasonably required in association with their injury and the treatment thereof. If the patient's condition is not stable, the care to maintain and promote healing is medically necessary.

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,