

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

**SOAH DOCKET NO. 453-04-1362.M5**

MDR Tracking Number: M5-03-2475-01

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 6-5-03.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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 treatment on 9-20-02 was found to be medically necessary. The physical medicine and office visits on all other disputed dates of service from 7-8-02 through 3-17-03 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 date of service 9-20-02 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 5<sup>th</sup> day of November 2003.

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

NOTICE OF INDEPENDENT REVIEW DECISION

**AMENDED LETTER  
NOTE: Decision**

August 21, 2003

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
4000 South IH-35, MS 48  
Austin, TX 78704-7491

RE: MDR Tracking #: M5-03-2475-01  
IRO Certificate #: IRO 4326

\_\_\_ 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 a back injury on \_\_\_ when pulling on a drum and felt immediate back pain radiating down both legs. He underwent an anterior lumbar interbody fusion at L5-S1 and 2-level IDET at L3-4 and L4-5 on 01/30/01. The patient reached maximum medical improvement on 12/16/02 with an impairment rating on 21%.

#### Requested Service(s)

Treatment for physical medicine and office visits, on 07/08/02, 07/25/02, 09/20/02 11/04/02, 11/06/02, 11/08/02, 11/11/02, 11/13/02, 11/18/02, 11/20/02, 11/22/02, 11/25/02, 11/27/02, 12/02/02, 12/05/02, 12/09/02, 12/12/02, 01/03/03, 01/15/03, 01/22/03, 02/24/03, 03/12/03 and 03/17/03.

#### Decision

It is determined that the treatment on 09/20/02 was medically necessary to treat this patient's condition. However, dates of service for physical medicine and office visits, on 07/08/02, 07/25/02, 11/04/02, 11/06/02, 11/08/02, 11/11/02, 11/13/02, 11/18/02, 11/20/02, 11/22/02, 11/25/02, 11/27/02, 12/02/02, 12/05/02, 12/09/02, 12/12/02, 01/03/03, 01/15/03, 01/22/03, 02/24/03, 03/12/03, and 03/17/03 were not medically necessary to treat this patient's condition.

#### Rationale/Basis for Decision

The patient initially saw the chiropractor on 05/09/02. Treatments were solely passive in nature from 05/09/02 through 08/30/02 and consisted of manipulation, electrical stimulation, cryotherapy, intersegmental traction, and myofascial release. The exclusive use of manipulation and passive therapy for almost four months was not medically necessary. Therefore, the office visit rendered on 07/08/02, which solely consisted of passive treatments, was not medically necessary.

The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (e.g., thermotherapy, therapeutic

ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. (“*Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain*”. *Physical Therapy*. 2001;81:1641-1674).

Haldeman et al indicate that it is beneficial to proceed to the rehabilitation phase of care as rapidly as possible to minimize dependence on passive forms of treatment/care and reaching the rehabilitation phase as rapidly as possible and minimizing dependence on passive treatment usually leads to the optimum result. (Haldeman, S., Chapman-Smith, D., and Petersen, D., *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Aspen, Gaithersburg, Maryland, 1993).

The office visit on 09/20/02 was medically necessary, as it did incorporate some active care into the office visit.

The physical medicine treatments rendered on 11/04/02, 11/06/02, 11/08/02, 11/11/02, 11/13/02, 11/18/02, 11/20/02, 11/22/02, 11/25/02, 11/27/02, 12/02/02, 12/05/02, 12/09/02, 12/12/02, 01/03/03, 01/15/03, 01/22/03, and 02/07/03 were not medically necessary based on the medical records reviewed. The documentation submitted for review did not contain any physical medicine treatment progress notes or chiropractic notes for the dates of service in question. Therefore, it is determined that the treatment on 09/20/02 was medically necessary. However, dates of service for physical medicine and office visits, on 07/08/02, 07/25/02, 11/04/02, 11/06/02, 11/08/02, 11/11/02, 11/13/02, 11/18/02, 11/20/02, 11/22/02, 11/25/02, 11/27/02, 12/02/02, 12/05/02, 12/09/02, 12/12/02, 01/03/03, 01/15/03, 01/22/03, 02/24/03, 03/12/03, and 03/17/03 were not medically necessary.

Sincerely,