

MDR Tracking Number: M5-03-2477-01

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 (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 June 2, 2003.

Dates of service 1/3/02 through 1/13/02 were received after the one year filing deadline. Per Rule 133.308(e)(1), dated of service 1/3/02 through 1/13/02 are considered untimely and are not eligible for review.

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 therapeutic exercises and office visits were found to be medically necessary. The ultrasound and myofascial release were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the therapeutic exercises, office visits, myofascial release and ultrasound charges.

This Order is hereby issued this 23<sup>rd</sup> day of October 2003.

Margaret Q. Ojeda  
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 1/15/03 through 3/14/03 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 23<sup>rd</sup> day of October 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/mqo

August 21, 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.

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

This patient was injured at work in a "twisting" type of motion when she fell on her back and injured her hand and low back. She states that she felt a "pop" when she fell. She had an immediate onset of low back pain from the injury and was referred to her employer's doctor. Eventually she sought care from \_\_\_ and was treated with manipulation along with active and passive modalities. MRI of the lumbar spine reveals a 3 mm disc herniation at L5/S1 with some effacement of the right nerve root. EMG indicated a nerve root irritation.

## DISPUTED SERVICES

The carrier has denied the medical necessity of ultrasound, myofascial release, therapeutic procedures and office visits from January 15, 2003 through March 14, 2003. A peer review was performed by \_\_\_\_, which denied care after 8-10 weeks of care.

## DECISION

The reviewer disagrees with the prior adverse determination regarding therapeutic procedures and office visits.

The reviewer agrees with the prior adverse determination on ultrasound and myofascial release.

## BASIS FOR THE DECISION

This patient was at the point at the time of the dispute to where she should have been on active treatment exclusively. I see no documentation that would indicate why passive treatment was still being rendered several months past the date of injury. Active treatment along with manipulation seemed to be helping this patient improve in her condition. It is not unreasonable in a condition that includes a herniation with a probable radiculopathy that a patient would be treated with active care and manipulation for around 4 months. This is consistent with most treatment guidelines, including the Mercy Guides and the TCA Guidelines. As a result the active care and chiropractic were 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,