THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: 453-04-5713.M5

MDR Tracking Number: M5-03-2598-01

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, 133.307 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 06-16-03.

The IRO reviewed hot or cold pack therapy and unlisted procedure nervous system rendered from 08-20-02 through 12-19-02 that was denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the requestor **did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund 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 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 09-03-03, 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.

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

| DOS | CPT CODE | Billed | Paid | EOB Denial Code | MAR$ | Reference | Rationale |
|---|---|---|---|---|---|---|---|
| 8-20-02 through 10-11-02 (10 DOS) | 64999 | $175.00 (1 unit X 10 DOS) | $0.00 | F, N | DOP | Rule 133.307 (g)(3)(A-F) | The requestor submitted relevant information to support DOP criteria. Recommend reimbursement in the amount of $175.00 X 10 DOS = $1,750.00 |
| TOTAL | | $1,750.00 | $0.00 | | $1,750.00 | | The requestor is entitled to reimbursement in the amount of $1,750.00 |

This Decision is hereby issued this 26th day of March 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

**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 8-20-02 through 12-19-02 in this dispute.

This Order is hereby issued this 26th day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

March 24, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION**
**Corrected Letter**

**RE: MDR Tracking #: M5-03-2598-01**

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. This physician is board certified by the osteopathic board of internal medicine. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this

physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a female who sustained a work related injury on ___. The diagnoses for this patient include low back pain, bulging disc and sciatica. Treatment for this patient has included therapeutic activities, joint mobilization, and medications.

Requested Services

Hot or cold packs and unlisted procedure nervous system from 8/20/02 through 12/19/02.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is upheld.

Rationale/Basis for Decision

The ___ physician reviewer noted that this case concerns a female who sustained a work related injury to her back on ___. The ___ physician reviewer also noted that the diagnoses for this patient included bulging disc and sciatica. The ___ physician reviewer further noted that treatment for this patient's condition has included therapeutic activities, joint mobilization and medications. The ___ physician reviewer explained that the medical documentation provided did not include an exam or comprehensive evaluation that would suggest the medical necessity of therapeutic activities, joint mobilization and hot or cold packs. The ___ physician reviewer also explained that the DRX device, (unlisted procedure nervous system), although FDA approved, is not considered to be as good or a better treatment than conventional methods. Therefore, the ___ physician consultant concluded that the therapeutic activities, joint mobilization, hot or cold packs and nervous system surgery from 8/20/02 through 12/19/02 were not medically necessary to treat this patient's condition.

Sincerely,

___