

MDR Tracking Number: M5-03-2632-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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 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 office visits w/manipulations rendered 1-15-02 through 6-21-02, and physical therapy rendered 3-4-02 through 4-23-02 were found to be medically necessary. The physical therapy rendered on 1-15-02 and 5-23-02 through 6-21-02 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these services charges.

The above Findings and Decision are hereby issued this 14<sup>th</sup> day of August 2003.

Dee Z. Torres  
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 1-15-02 through 6-21-02 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 14th day of August 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

#### NOTICE OF INDEPENDENT REVIEW DECISION

August 5, 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 #: M5-03-2632-01  
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. \_\_\_ 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 low back injury while lifting a battery out of a police car on \_\_\_\_. He reported experiencing a sudden, knife-like pain to the low back radiating down his left lower extremity. He saw a chiropractor for treatment and physical therapy.

#### Requested Service(s)

Physical therapy sessions, office visits with manipulations, and office visits from 01/15/02 through

#### Decision

It is determined that the office visits and office visits with manipulations from 01/15/02 through 06/21/02 and physical therapy from 03/04/02 through 04/23/02 were medically necessary to treat this patient's condition. However, the physical therapy sessions prior to 03/04/02 and from 05/23/02 through 06/21/02 were not medically necessary to treat this patient's condition.

#### Rationale/Basis for Decision

This patient had problems which required decision-making for treatment and referrals. It is generally accepted that the treating physician in physical presence of the injured employee is in better position to determine proper treatment and/or referral and to address questions presented by the injured person. The office visit schedule is within generally accepted guidelines for an individual with exacerbating problems.

The physical therapy program should be conducted at regular intervals several times a week to be effective. Passive type physical therapy should be considered for short term treatment and early on in therapy before a more patient-driven active therapy regimen is begun. Therefore, it is determined that the office visits and office visits with manipulations from 01/15/02 through 06/21/02 and physical therapy from 03/04/02 through 04/23/02 were medically necessary. However, the physical therapy sessions prior to 03/04/02 and from 05/23/02 through 06/21/02 were not medically necessary.

From a document authored by Craig Liebenson entitled The Purpose of Spinal Rehabilitation: Integration of Passive and Active Care: “Most third-party payors have experienced ongoing treatment for chronic musculo-skeletal pain without any realistic endpoints of care or the conclusion of it”. “However, there is a sound rationale for spinal rehabilitation for chronic musculo-skeletal pain. Whereas palliative measures, in particular spinal manipulation, give much needed symptomatic relief and improved activity tolerance in acute pain patients, it is exercise which is proven to be effective in chronic situations.”

In a document authored by K.D. Christensen, D.C. entitled Physiotherapy and Rehabilitation Guidelines for the Chiropractic Profession: “Stage four is the rehabilitation stage of treatment following the 7-12-week subacute remodeling phase”. “Each clinician must depend on his or her own knowledge of chiropractic and expertise use or modification of these materials and information. Generally, passive care is time limited, progressing to active care and patient functional recovery.” “Further research appears necessary in order to obtain a consensus of the clinical guidelines of the application of specific physio-therapy-rehabilitative procedures, concerning the restoration of function and prevention of disability following disease, injury, or loss of body part.”

Sincerely,