

MDR Tracking Number: M5-03-2679-01

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 6-23-03.

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, therapeutic exercises, myofascial release, joint mobilization, and ultrasound were found to be medically necessary. The requestor submitted a letter of withdrawal for disputed dates of service 5-14-03 and 5-19-03. The respondent raised no other reasons for denying reimbursement for the above listed services.

The above Findings and Decision are hereby issued this 1st day of October 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 2-24-03 through 5-12-03 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 1st day of October 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

## NOTICE OF INDEPENDENT REVIEW DECISION

August 28, 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 #                M5-03-2679-01  
                      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 an injury on \_\_\_ when he fell off of a scaffolding-type structure. He had injuries to his cervical and lumbar spine, arms, right foot, and right finger. He saw a chiropractor for treatment and physical therapy. An MRI dated 02/20/03 revealed disc protrusions at L3-4 and L4-5 with effacement on the thecal sac.

### Requested Service(s)

Office visits, therapeutic procedure, myofascial release, joint mobilization, ultrasound, durable medical equipment, office visits with manipulation, and supplies from 02/24/03 through 05/12/03

### Decision

It is determined that the office visits, therapeutic procedure, myofascial release, joint mobilization, ultrasound, durable medical equipment, office visits with manipulation, and supplies from 02/24/03 through 05/12/03 were medically necessary to treat this patient's condition.

### Rationale/Basis for Decision

This patient initiated treatment on 01/27/03 and by 02/24/03 only four weeks had transpired. Four weeks does not represent a sufficient trial of manipulative therapeutics with the mechanism of injury that was

experienced by the patient. The patient's injuries were severe and required the adoption of a treatment algorithm outside the strain/sprain model. He experienced multiple injuries that would effectively limit the safe transition to active therapeutics. In the designated doctor examinations (DDE) on 03/13/03 and 05/08/03, continued care was warranted and the patient was not found to be at maximum medical improvement (MMI).

Severity of the injury experienced by this patient warranted the activation of a multidisciplinary treatment algorithm as soon as possible and the provider initiated this treatment paradigm in an acceptable period of time.

Examination of the medical record implies that the patient was utilizing some passive modalities to aid in the transition to active therapeutics, an approach that is utilized by numerous rehabilitation professionals. The FCE that was performed on 04/28/03 continued to reveal that the patient displayed functional deficits. At this point, it would not be medically appropriate for this patient to engage in any further passive or manipulative therapeutics. It would be appropriate for the patient to be transitioned into a return-to-work program like work hardening.

Therefore, it is determined that the office visits, therapeutic procedure, myofascial release, joint mobilization, ultrasound, durable medical equipment, office visits with manipulation, and supplies from 02/24/03 through 05/12/03 were medically necessary.

The aforementioned information has been taken from the following guidelines of clinical practice and clinical references:

- *Clinical practice guidelines for chronic, non-malignant pain syndrome patients II: An evidence-based approach.* J Back Musculoskeletal Rehabil 1999 Jan 1;13;47-58.
- Frost H, Klaber Moffet JA, Moser JS, Fairbank JC. *Randomised controlled trial for evaluation of fitness programme for patients with chronic low back pain.* BMJ. 1995 Jan 21; 310(6973): 151-4.
- Mior S.. *Exercise in the treatment of chronic pain.* Clin J Pain. @001 Dec;17(4 Suppl):S77-85.
- *Unremitting low back pain. In: North American Spine Society phase III clinical guidelines for multidisciplinary spine care specialists.* North American Spine Society (NASS); 2000. 96p.

Sincerely,