

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

**SOAH DOCKET NO. 453-04-0780.M5**

MDR Tracking Number: M5-03-2681-01

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 6-20-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, the requestor is not owed a refund of the paid 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 work hardening and physician/team conferences on 1-20-03 through 3-10-03 were found to be medically necessary. The muscle testing, therapeutic exercises, neuromuscular re-education, manual traction, myofascial release, joint mobilization, physical performance tests, and neuromuscular junction testing (technical component), and therapeutic activities on 10-9-02 through 12-13-02 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The above Findings and Decision are hereby issued this 4th day of September 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 1-20-03 through 3-10-03 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 4th day of September 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

August 20, 2003

## NOTICE OF INDEPENDENT REVIEW DECISION

**RE: MDR Tracking #: M5-03-2681-01**

\_\_\_ 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 chiropractor on the \_\_\_ external review panel. The \_\_\_ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor 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 \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

### Clinical History

This case concerns a male who sustained a work-related injury on \_\_\_. The patient reported that while at work he sustained a repetitive motion injury to his left elbow. The patient was initially treated with therapy. The patient then underwent a MRI 12/13/02 that showed a annular ligament tear. The patient was then treated with injections and a work hardening program and was returned to work.

### Requested Services

Physical therapy sessions, muscle testing, neuromuscular junction, work hardening, physician conference with team on 10/9/02 through 3/10/03.

### Decision

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

### Rationale/Basis for Decision

The \_\_\_ chiropractor reviewer noted that this case concerns a male who sustained a work-related injury to his left elbow on \_\_\_. The \_\_\_ chiropractor reviewer also noted that the patient was diagnosed with lateral epicondylitis, elbow sprain/strain and radial nerve comp/lesion. The \_\_\_ chiropractor reviewer further noted that the patient was treated with physical therapy, work hardening program and injections. The \_\_\_ chiropractor reviewer indicated that the patient underwent neuromuscular testing on 10/17/02. The \_\_\_ physician reviewer explained that the medical records provided did not demonstrate that the patient had sensory deficits in the left upper extremities that would indicate the need for a neuromuscular testing. The

\_\_\_ chiropractor reviewer noted that the patient was treated with physical therapy from 8/30/02 through 1/20/03. The \_\_\_ chiropractor reviewer explained that treatment for lateral epicondylitis with physical therapy should not last more than 6 weeks without significant improvement. (American Association of Orthopedic Surgeons Guidelines: 2003). The \_\_\_ chiropractor reviewer indicated that on 8/30/02 the patient was evaluated and reported to complain of reduced motion in the left elbow, radiating pain in left upper extremity, right elbow joint pain and muscle soreness. The \_\_\_ chiropractor reviewer also indicated that the patient continued with the same complaints at each visit up until 10/9/02. The \_\_\_ chiropractor reviewer explained that after a previous 6-week trial of therapy from 8/30/02 through 10/9/02, and no significant changes in symptoms or any change in treatment plan, there is no medical necessity for continued therapy without a referral to an orthopedist or chiropractic testing. The \_\_\_ chiropractor reviewer also explained that the work hardening program the patient attended was medically necessary. Therefore, the \_\_\_ chiropractor consultant concluded that the muscle testing, neuromuscular testing and physical therapy from 10/9/02 through 3/10/03 were not medically necessary to treat this patient's condition. However, the \_\_\_ chiropractor consultant concluded that the work hardening program and physician conferences with team from 10/9/02 through 3/10/03 were medically necessary to treat this patient's condition.

Sincerely,