

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 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 not the only issue** to be resolved. Disputed dates of service 3-18-02 through 4-11-02 are outside the one year filing deadline and were not reviewed. The requestor submitted a withdrawal letter for disputed dates of service 7-8-02 through 7-30-02 and 8-14-02 through 8-28-02. The office visit, hot/cold packs, electrical stimulation, therapeutic exercises, aquatic therapy, myofascial release, and therapeutic activities were found to be medically necessary for disputed dates of service 8-2-02 through 8-12-02. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 8-2-02 through 8-12-02 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 15th day of October 2003.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

DZT/dzt

NOTICE OF INDEPENDENT REVIEW DECISION

October 2, 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 #: M5-03-2682-01  
IRO Certificate #: IRO 4326

The \_\_\_ 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 injuries to his right shoulder and upper extremity on \_\_\_ after falling off a ladder. MRIs dated 02/12/02 of the right elbow revealed moderate lateral epicondylitis with a partial tear of the common extensor tendon and of the shoulder, hypertrophic changes in the acromioclavicular (A-C) joint and fluid in the subacromial and subdeltoid bursa. He saw a designated doctor on 06/07/02 and was given maximum medical improvement with an impairment rating of 4%. The patient underwent a right shoulder acromioplasty, A-C arthroplasty, and right labral debridement on 07/03/02.

Requested Service(s)

Office visits, hot or cold packs, electrical stimulation, therapeutic exercises, aquatic therapy, myofascial release, and therapeutic activities from 08/02/02 through 08/12/02

Decision

It is determined that the office visits, hot or cold packs, electrical stimulation, therapeutic exercises, aquatic therapy, myofascial release, and therapeutic activities from 08/02/02 through 08/12/02 were medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The patient's surgeon ordered a post operative course of physical therapy daily for four weeks. Under normal circumstances, national treatment guidelines recommend initial post-surgical rehabilitation in the frequency of three times for four weeks then re-evaluation. However, due to the significance of this patient's injury, his lack of response to conservative care, and ultimately his surgical intervention, the additional therapy ordered was in fact medically necessary. Subsequently, another prescription was written by his surgeon for another four weeks of therapy based on his improvements in the phase I post surgical rehabilitation. The medical necessity was further confirmed based upon the positive examination and re-examination findings. The patient was progressed in to the intermediate phase of strengthening.

The records supply sufficient documentation on each visit regarding history, examination, treatment, impression, and recommendations to warrant his aggressive post-surgical rehabilitation program. The daily notes reveal some of improvement; however, the patient did experience some recurrence of symptoms. The fact that the patient did not satisfactorily recover in a preset amount of time is not sufficient reason to deny the post-surgical rehabilitation program. Therefore, it is determined that the office visits, hot or cold packs, electrical stimulation, therapeutic exercises, aquatic therapy, myofascial release, and therapeutic activities from 08/02/02 through 08/12/02 were medically necessary.

Sincerely,