

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, 2003 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 dispute was received on 6-30-03.

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, physical therapy, and supplies rendered 8-5-02 to 12-10-02 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these charges.

The above Findings and Decision are hereby issued this 22nd 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 8-5-02 through 12-10-02 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 22nd day of August 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

DZT/dzt

August 12, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-03-2760-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

___, a 26 year old female, sustained a work-related injury to her mid and lower back along with a right shoulder on ___, while working as a ___ for ___. Mechanism of injury was described as occurring while lifting and moving boxes. She developed some lower back pain, consulted with the company doctor at ___, then a week later presented to ___ complaining of mid and lower back pain, right upper trapezius pain, right shoulder pain. He diagnosed her with lumbar facet syndrome, thoracic sprain/strain, lumbar sprain/strain and sacroiliitis, and proceeded to treat her with fairly extensive chiropractic treatment.

She had a RME performed by ___ on 1/4/02. He references a MRI performed on 11/23/01 which revealed degenerative changes of the lumbar spine without focal disc herniation, spinal stenosis or nerve root impingement. His impression was status post-lumbar strain with persistent pain and delayed recovery of unknown cause. He noted chronic pain behavior and manifestations of symptom magnification. The patient's care was taken over by ___ who took over ___ practice in March 2002. ___ response to ___ RME included agreeing to cease any ongoing treatment with respect to her lumbar spine, but to continue to attempt to resolve her upper thoracic and shoulder complaints. He had obtained a MRI of the thoracic spine on 4/5/02 which showed a focal 1-2mm left paracentral bulging disc with mild indentation upon the thecal sac, focal facet arthropathies bilaterally and slight reduction of the left sided lateral recess at T9/T10. MRI of the right shoulder taken at the same time reveals mild hypertrophic changes with small effusion of the right glenohumeral joint, with mild hypertrophic changes at the AC joint with small fluid collection in

the acromial bursa suggestive of a mild acromial bursitis with no subacromial arch impingement syndrome. Small fluid signal noted along the tendon sheaths of the long head of the biceps tendon suggesting mild tendonitis and/or fluid from the glenohumeral effusion. A referral on 6/24/02 was made to ____, a sports medicine specialist. Complaints of this time were continued upper back, occasional low back and right upper shoulder pain. She reported to him that she had not gotten any better despite the treatment plans. His impression was severe symptomatic scapular rotator strain with inflammation. An attempt at subacromial injection was made with minimal effect. He recommended a scapular rotator strengthening program, anti-inflammatory medications and massage therapy. He determined that it would simply take a while to resolve itself.

____ note of 6/13/02 indicates that the patient did not wish to pursue any further treatment, she had failed conservative treatment and did not wish to pursue further pain management options, despite being advised to see the shoulder specialist. The patient then saw a designated doctor and was assigned 5% impairment for the lumbar spine, 0% for the shoulder. ____ contested this by letter reporting that the thoracic spine had been overlooked. From what I can determine, the patient then presented again in August of 2002, complaining of increased thoracic spine pain. Treatment to this area was reinstated and the patient was referred out for pain management services to ____ who consulted with the patient on 10/16/02. His impression was of thoracic T8/9 and T9/10 radiculopathy, sacroiliac joint dysfunction, trochanteric bursitis, lumbar facet syndrome, right shoulder internal derangement and chronic pain. He recommended anti-inflammatory medication, with eventual epidural steroid injections to the thoracic spine, followed up by an aggressive rehab therapy. The injections were performed as a series between 11/11/02 and 1/6/03. Concurrently with this the patient was seen approximately 20 times, receiving passive modalities and exercises.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits, PT, and supplies from 8/5/02 through 12/10/02:

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

This patient had been initially treated with a conservative care program directed primarily towards her low back with minimal improvement noted. Care was then effectively discontinued around about June 2002. It is apparent that she continued with complaints, primarily focused to the upper thoracic and shoulder area, which worsened around August 2002. Another course of therapy was directed towards addressing these exacerbated complaints, combined with the application of ESI's to the thoracic region. It is an accepted standard of care to combine additional rehabilitation with the application of ESI's.

Treatment provided was therefore within accepted clinical standards for such an injury and satisfies the requirements for medical necessity as outlined in Texas Labor Code section 408.021.

____ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ____ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ____, I certify that there is no known conflict between the reviewer, ____ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

____ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,