

MDR Tracking Number: M5-03-2907-01

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 7-11-03.

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 \$650.00** 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 aquatic therapy, ultrasound, therapeutic activities, hot/cold packs, and electrical stimulation (unattended) were 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 26<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 9-25-02 through 11-4-02 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 26th day of August 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

August 20, 2003

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

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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 Medical Doctor board certified and specialized in Physical Medicine and Rehabilitation. 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

\_\_\_ is a 43-year-old gentleman who fell nine feet from a scaffold and landed on cement. He was taken to \_\_\_ room for x-rays and released. He sought treatment with \_\_\_ on 8/27/02 for complaints of swelling in his legs and shortness of breath. He was kept on Flexeril, Lortab and Ibuprofen and physical therapy was started. His response to treatment was slow. An MRI of the lumbar spine identified L5/S1 disc herniation with the patient having complaints of pain radiating to the lower extremity. His therapy was continued first daily, then gradually changed to three times per week. When he failed to respond to conservative treatment, a consultation was obtained from \_\_\_, an orthopaedic surgeon who recommended lumbar epidural steroid injections. These were carried out by \_\_\_ and provided \_\_\_ some pain relief. Since he was not considered an candidate for surgery he was placed at MMI in April of 2003 and given a 10% whole person impairment.

#### DISPUTED SERVICES

Under dispute is the medical necessity of physical medical services from 9/25/02 - 11/4/02.

#### DECISION

The reviewer disagrees with the prior adverse determination.

## BASIS FOR THE DECISION

The records provided document that \_\_\_ suffered a significant injury to his back due to a fall. His treating doctor initiated therapies when he was at the point that he could tolerate them. The therapies provided were appropriate and progressive to limitations to the patient's ability to participate. When he failed to respond to the therapies they were stopped and consultation was obtained. The carrier provided no information except for the blanket statement that the treatment/services provided exceeded medically acceptable utilization review criteria and reimbursement guidelines established for severity of injury, intensity of service and appropriateness of care. However, the \_\_\_ reviewer finds no rationale for the denial of services in this case.

\_\_\_ 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,