

MDR Tracking Number: M5-03-2999-01

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 (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 July 18, 2003.

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 kinetic activities, therapeutic procedures, and office visits were found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the kinetic activities, therapeutic procedures, and office visit charges.

This Findings and Decision is hereby issued this 4th day of November 2003.

Margaret Q. Ojeda
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 9/4/02 through 10/29/02 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 4th day of November 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/mqo

October 1, 2003
Amended October 7, 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 Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). 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

___ was driving an 18-wheeler when he was involved in a head-on collision, causing him to be pushed under the steering wheel and injuring a low back that eventually underwent laminectomy/discectomy at L3/L4. The patient was seen by ___, who found him to be lacking physical symptoms in June of 2002 and recommended a chronic pain program. The surgery had been performed in the spring of 2002 and since that time the symptoms had grown more inorganic in nature. The patient's file indicates that he is non-compliant with therapy recommendations, but when he does participate it is beneficial and he puts forth good effort. Multiple peer reviews from ___ are presented for review.

DISPUTED SERVICES

Under dispute is the medical necessity of kinetic activities, therapeutic procedures and office visits from 9/4/02 through 10/29/02.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

This patient clearly was in recovery from a serious disc injury which required significant rehabilitation. This case was difficult to determine medical necessity because of the patient's

non-compliance in the past. However, in reviewing the records it was clear that this had to do with medical conditions unrelated to the date of injury, including complications of diabetes mellitus. The providers involved did deliver care in a high quality methodology and did so with appropriate utilization, especially considering the complications of this case. While the treatment was within every guideline that the reviewer could find, it is also clear that with the complications of this case the guidelines are not applicable. The care rendered was reasonable for the condition of the patient.

___ 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,