

MDR Tracking Number: M5-03-3055-01

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 24, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the medical necessity issues. 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 therapeutic exercises **were found to be medically necessary**. The office visits with manipulations, joint mobilization, ultrasound, myofascial release and other passive modalities **were not found to be medically necessary**. The respondent raised no other reasons for denying reimbursement of the therapeutic exercises, office visits with manipulations, joint mobilization, ultrasound, myofascial release and other passive modalities charges.

This Findings and Decision is hereby issued this 8th day of October 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 3/19/03 through 6/4/03 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 8th day of October 2003.

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

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 10/17/03

MDR Tracking Number: M5-03-3055-01

September 30, 2003

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

CLINICAL HISTORY

Based on information submitted for review, it appears that this patient was involved in a ___ work related shoulder injury as a result of a slip on a wet floor. The patient appears to have had corrective surgery to this shoulder by a ___ on 3/4/02. The patient apparently returned to work and re-injured the shoulder. The patient changed doctors in November of 2002 and underwent additional corrective surgery with a ___ on 12/19/02. ___ recommended passive ROM physical therapy to begin in 2/1/03 and strengthening on 2/15/03. ___ then recommended active rehabilitation with strengthening exercise to begin in March of 2003. No additional modalities, manipulations or mobilizations were ordered. The patient appears to receive concurrent pain management services back to **12/28/00** from a ___, chiropractor. Physical therapy re-evaluation records are also submitted by ___ for **1/29/01**. No initial chiropractic examination report is provided for

review. Similar reports indicate that this patient was re-evaluated by ___ on 3/25/03, 5/8/03 and 6/20/03 suggesting that the patient is undergoing multiple passive modalities, flexibility and strengthening exercises. Chiropractic daily office notes are submitted for 3/19/03 to 6/4/03 only. No diagnostic impressions are provided in these notes. The patient appears to receive cold packs, joint mobilization, manipulation, unlisted exercise and ultrasound to the right shoulder. A functional capacity evaluation is provided by ___ on 7/16/03 placing the patient at 'light' work capacity level. The patient appears to have an impairment rating performed 8/8/03 by a ___ suggesting that he has not yet reached MMI and that he should achieve this upon completing a work hardening program. No work hardening notes are provided for review.

REQUESTED SERVICE(S)

Determine medical necessity for chiropractic services rendered (therapeutic procedure, office visits w/manipulation, ultrasound, myofascial release and joint mobilization, office visits) for dates in dispute 3/19/03 through 6/4/03.

DECISION

Deny office visits with manipulations, mobilizations, ultrasound, office visits, myofascial release and other passive modalities provided by chiropractor during the period of 3/19/03 to 6/4/03 as no medical necessity, clinical rationale or specific surgeon's orders are provided that support the procedures.

Approve strengthening exercises (97110) as this service is supported by documentation provided.

RATIONALE/BASIS FOR DECISION

Treating surgeon's orders provide for only isometric, isotonic and isokinetic strengthening exercise to be provided during this period. Chiropractic notes appear to suggest erroneous dates for re-evaluation on **12/28/00** and **1/29/01**, which do not even appear to be causally related to these conditions. No chiropractic clinical rationale for services provided (other than active exercise) is submitted by treating doctor. Also, in none of ___ notes, reports or other communications does he appropriately identify himself as a "D.C." or "Doctor of Chiropractic."

The observations and impressions noted regarding this case are strictly the opinions of this evaluator. This evaluation has been conducted only on the basis of the medical/chiropractic documentation provided. It is assumed that this data is true, correct, and is the most recent documentation available to the IRO at the time of request. If more information becomes available at a later date, an additional service/report or reconsideration may be requested. Such information may or may not change the opinions rendered in this review. This review and its findings are based solely on submitted materials.

No clinical assessment or physical examination has been made by this office or this physician advisor concerning the above-mentioned claimant. These opinions rendered

do not constitute a per se recommendation for specific claims or administrative functions to be made or enforced.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 20th day of October 2003.