

MDR Tracking Number: M5-03-3115-01

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 7-29-03.

The Medical Review Division has reviewed the IRO decision and determined that the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare and therefore; the **requestor did not prevail** in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 work hardening program, hot/cold packs, electric stimulation, ultrasound, massage therapy, and functional capacity exam from 7-29-02 through 1-1-03 were found to be medically necessary. The work hardening program and functional capacity exam from 1-2-03 through 2-21-03 were not found to be medically necessary. 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 7-29-02 through 12-9-02 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 24th day of October 2003.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division
DZT/dzt

October 8, 2003

NOTICE OF INDEPENDENT REVIEW DECISION
Corrected Letter

RE: MDR Tracking #: M5-03-3115-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's

adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ___ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ___ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 37 year-old male who sustained a work related injury on ___. The patient reported that while at work he was opening a rear brush truck door when he began to experience lower back pain. The patient was evaluated in the emergency room on ___. The patient underwent an EMG/NCV on 5/29/02 that showed possible L5 nerve irritation. An X-Ray report from 6/3/02 indicated postural alterations in the lumbar and cervical spine. MRI of the cervical spine on 6/4/02 showed flattening of the cervical lordosis, degenerative disc disease and posterior bulging of the annulus and fibrosis of C5 by no more than 1mm. MRI of the lumbar spine on 6/4/02 indicated that there was flattening of the lumbar lordosis, mild degenerative disc disease at the L5 level and broad based protrusion of the L5 level approximately 2.5mm in magnitude. Diagnoses for this patient included cervical herniated nucleus propulsus, lumbar herniated nucleus propulsus, cervical sprain/strain, thoracic sprain/strain, lumbar sprain/strain and sacrococcygeal sprain/strain. Treatment of this patient's condition has included therapy, chiropractic treatment, ultrasound, massage therapy and work hardening.

Requested Services

Work hardening, hot or cold packs, electric stimulation, ultrasound, massage therapy and functional capacity exam from 7/29/02 through 2/21/03.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

Rationale/Basis for Decision

The ___ chiropractor reviewer noted that this case concerns a 37 year-old male who sustained a work related injury to his low back on ___. The ___ chiropractor reviewer also noted that the diagnoses for this patient included cervical HNP, lumbar HNP, cervical sprain/strain, thoracic sprain/strain, lumbar sprain/strain and sacrococcygeal sprain/strain. The ___ chiropractor reviewer further noted that treatment for this patient's condition has included therapy, chiropractic treatment, ultrasound, massage therapy and work hardening. The ___ chiropractor reviewer explained that treatment from July 2002 through January 2003 was sufficient to show significant progress. The ___ chiropractor reviewer also explained that the patient did not show significant progress with continued treatment after January 2003. Therefore, the ___ chiropractor consultant concluded that the work hardening, hot or cold packs, electric stimulation,

ultrasound, massage therapy and functional capacity exam from 7/29/02 through 1/1/03 were medically necessary to treat this patient's condition. However, the ___ chiropractor consultant also concluded that the work hardening and functional capacity exam from 1/2/03 through 2/21/03 were not medically necessary to treat this patient's condition.

Sincerely,