

MDR Tracking Number: M5-03-3173-01

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 8-4-03.

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 and the therapeutic exercises on 8-19-02 through 10-11-02 were found to be medically necessary. The therapeutic activities, continuous passive motion, myofascial release, hot/cold packs, and office visits, on 8-19-02 through 10-11-02 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 8-19-03 through 10-11-02 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 5th day of November 2003.

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

November 3, 2003

Re: MDR #: M5-03-3173-01
IRO Certificate No.: IRO 5055

REVISED REPORT

Added DOS 08/19/02, and the treatment continuous passive motion.

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Physical Medicine and Rehabilitation.

Clinical History:

The patient a 46-year-old gentleman who was injured on ____. On review of the outside radiology reports, there is an MRI of the lumbar spine without contrast, dated 04/24/97, which shows mild but definite L5-S1 disk space narrowing and disk space degeneration noted. The L5-S1 level is otherwise unremarkable in appearance. Minimal bilateral facet hypertrophic change is noted at L4-5. The L4-5 level is otherwise unremarkable in appearance. L3-4, L2-3, and L1-2 levels are normal in appearance. No evidence of canal stenosis is noted.

The patient's symptoms from that time developed into a chronic lower back pain syndrome. He underwent multiple procedures including lumbar facet joint injections at L3-4, L4-5 and L5-S1 bilaterally, on at least two different occasions, and had temporary relief.

He also participated in physical therapy, of which the earliest recorded visits I have date back to 2001. On review of the patient's physical therapy notes, he appears to have made some temporary gains in his pain profile as well as range of motion testing, but always fell back to a worsened state in his level of pain.

Of note in the patient's medical record is implantation of an opioid infusion pump on 06/18/03 which post-dates the items in question listed above.

Disputed Services:

Aquatic therapy, therapeutic exercises, myofascial release, and hot or cold packs from 08/19/02 through 10/11/02.

Decision:

The reviewer partially agrees with the determination of the insurance carrier. The office visit on 08/19/02, aquatic therapy, and therapeutic exercises for the dates in question were medically necessary.

The passive therapeutic modalities, including continuous passive motion, myofascial release, and hot or cold packs were not medically necessary for the dates in question.

Rationale:

I agree with the office visit on 08/19/02, aquatic therapy, and therapeutic exercises in the setting of his facet procedures, considering his benefit shown in the past.

On the other hand, the passive therapeutic modalities, including continuous passive motion, myofascial release and hot or cold packs, are inappropriate for patients with chronic pain syndrome.

Pivotal peer-reviewed articles may be referenced which include the work by Drs. Moldofsky, Fordyce, and King. In addition, one may reference Braddom's textbook, *Physical Medicine and Rehabilitation*, specifically Dr. David Weber's chapter on therapeutic modalities.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,