

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-1816.M5

MDR Tracking Number: M5-03-3198-01

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 August 7, 2003.

Correspondence submitted by ___ dated 10/31/03 revealed ___ desires to **withdrawal** the fee issues in this dispute. Therefore at ___ request the medical necessity issues will be addressed and the fee issues are withdrawn without further action required.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visits, therapeutic exercises, myofascial release, joint mobilization, manual traction, gait training, diathermy, electrical stimulation and training in activities of daily living were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the office visits, therapeutic exercises, myofascial release, joint mobilization, manual traction, gait training, diathermy, electrical stimulation and training in activities of daily living were not found to be medically necessary, reimbursement for dates of service from 8/7/02 through 5/21/03 is denied and the Division declines to issue an Order in this dispute.

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

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division
MQO/mqo

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

October 20, 2003

Re: IRO Case # M5-03-3198-01

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC).

Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic who is licensed by the State of Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient injured his neck and lower back in ___ when he slipped, twisted and fell on a wet floor. The patient has received chiropractic treatment including manipulation, cyotherapy, kinetic activity, range of motion exercises, interferential and traction.

Requested Service(s)

Office visits, therapeutic procedures, myofascial release, joint mobilization, manual traction, gait training, diathermy, electrical stimulation and training in activities of daily living from 8/7/02-5/21/03

Decision

I agree with the carrier's decision to deny the requested treatment

Rationale

The patient received eight weeks of chiropractic treatment prior to the dates in dispute without relief of symptoms or improved function. His pain scale remained at 5/10 to 7/10 throughout the entire treatment period. The patient had several documented exacerbations that slowed his progress. Those exacerbations may continue until medical intervention takes place.

The documentation provided for this review fails to describe what type of therapeutic exercises were used or how the patient responded to the procedures.

In a 9/13/03 letter to the IRO, the treating DC states that "this office has shown positive diagnostic studies which objectively quantify the neurological damage from this injury." The DC, however, should have known after months of extensive treatment, that his

treatment was not relieving symptoms or improving function. He continued to treat the patient for several additional months with no documented change in treatment protocol or subjective or objective improvement. Additional treatment past 8/7/02 might have been supported if the documentation had shown measurable or objective improvement, but it did not show improvement. In the 9/13/03 the DC also stated that his request for an epidural steroid injection was denied and, therefore he had “no choice” other than to extend the course of treatment. The treatment, however, based on the records provided for this review, was not beneficial to the patient. The patient’s ongoing and chronic care produced no measurable or objective improvement, was not directed at a progression for return to original work status, and was not provided in the least intensive setting.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,