

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 7-14-03.

The Medical Review 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 hot/cold packs, electrical stimulation, electrodes, unlisted modality, and mechanical traction 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 Medical Review Division has determined that medical necessity were the only fees involved in the medical dispute to be resolved. No EOB was submitted for the unlisted modality on 2-19-03. No EOB was submitted for all services rendered on 2-28-03 and 3-3-03. Disputed dates of service 2-19-03 (unlisted modality), 2-28-03 and 3-3-03 did not have proof of reconsideration as required by Rule 133.304(k); therefore, these disputed dates of service are not eligible for review. Also, services with the codes 98941, 98940, and 97140 will not be reviewed, as the 1996 Medical Fee Guideline does not recognize these CPT codes. As the services listed above were not found to be medically necessary, reimbursement for dates of service from 2-11-03 through 5-1-03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 8th day of December 2003.

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

### **NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** December 5, 2003

**RE: MDR Tracking #:** M5-03-3203-01  
**IRO Certificate #:** 5242

\_\_\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic physician reviewer who has a temporary ADL exemption. The Chiropractic physician reviewer has signed a certification statement stating 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 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 this case.

### **Clinical History**

It appears the claimant was injured at work as she was trying to demonstrate the reclining mechanism of a recliner during the normal course and scope of her employment as a sales person and general laborer for a furniture company. According to the records, the claimant bent over to show the reclining mechanism to a customer and felt low back pain which reportedly radiated into the right lower extremity. The claimant began chiropractic treatment with \_\_\_\_ for what appears to be about 1.5 years. The claimant also underwent a chronic pain management program and work conditioning program. The claimant has undergone an MRI evaluation and electrodiagnostic work up as well. The claimant relocated to \_\_\_ on an unknown date; however, began seeing a chiropractor in \_\_\_ for her ongoing low back problems as of at least February 2003. Prior to this, the claimant had been found to be at maximum medical improvement on at least 2 occasions as of 11/1/01 and 2/2/02 in which she was given 5% impairment rating for her \_\_\_ injuries. \_\_\_\_, the treating chiropractor, rendered a 10% impairment rating as of 11/1/01. An functional capacity exam of 6/14/01 revealed the claimant to be functioning at the medium duty level. An functional capacity exam of 12/18/00, shortly after the injury, revealed the claimant to be functioning at the light duty level and she was reportedly required to function at the light duty level as part of her employment. The claimant also may have been required to lift furniture on occasion and this obviously would have placed her in a more physically demanding job duty classification; however, I am assuming this from the documentation in that the functional capacity exam of 12/18/00 does state that the claimant is required to function at the light duty level of no lifting above 20 pounds on an occasional basis. At any rate, the functional capacity exam report of 12/18/00 revealed the claimant to have weakness in both of her upper extremities which I found interesting, because she reportedly hurt her back. The claimant's initial diagnoses from \_\_\_ were lumbar facet syndrome and lumbosacral sprain/strain injury. The claimant also saw \_\_\_\_, who is a physiatrist. The claimant was not felt to be a surgical candidate. The MRI evaluation revealed the claimant to have noncompressive degenerative disc changes in the lower lumbar spine and annular tears or fissures at the L4/5 and L5/S1 levels. The claimant underwent an electrodiagnostic study which was reportedly normal and did not show conclusive evidence of lumbar radiculopathy or other peripheral neuropathies. At any rate the claimant underwent chiropractic services in \_\_\_ for the \_\_\_ injury from 2/11/03 through 5/1/03. These services consisted of office visits, manipulation, heat or cold packs, electric stimulation, unlisted modality treatment, electrodes and what appears to may have been myofascial release.

### **Requested Service(s)**

The medical necessity of the outpatient services including hot or cold packs, electric stimulation, electrodes, and unlisted modality, from 2/11/03 through 5/1/03.

## **Decision**

I agree with the insurance carrier and find that the services in dispute as listed above were not medically necessary.

## **Rationale/Basis for Decision**

This claimant has received voluminous amounts of treatment and testing to include diagnostic work ups, chronic pain management program, work conditioning and voluminous amounts of chiropractic treatment. The notes from the chiropractor in \_\_\_\_\_, who in this case is \_\_\_\_\_, indicate a myriad of complaints that could not possibly be related to the injury of \_\_\_\_\_ as described. These symptoms included roaring pressure in the head, irritability, lack of being able to focus, profuse sweating, depression, stress, burning in both feet and various upper extremity symptoms along with neck pain. The chiropractic notes from \_\_\_\_\_ in \_\_\_\_\_ were reviewed. It appears the claimant had difficulty sleeping and on each subsequent chiropractic visit from February through May 2003 the claimant's symptoms remained rather severe. In fact, \_\_\_\_\_ diagnoses were chronic residual paravertebral myofascitis and lumbosacral syndrome resultant from sprain/strain of lumbar spine complicated by deep psychological overlay. It appears that the chiropractic treatment was only giving the claimant temporary relief and was not serving any purpose with respect to keeping her employed or increasing her overall function because on each subsequent chiropractic visit, the claimant's symptoms were rather severe and included symptoms that would be considered not related to the lumbar injury of \_\_\_\_\_. The claimant saw \_\_\_\_\_, as mentioned earlier, and she also complained of neck pain, low back pain, wrist pain, knee pain, ankle pain and pain in both lower extremities. The claimant was also noted to smoke 15 cigarettes a day and be divorced with 4 children. I fail to see how a lumbar strain injury would cause wrist pain, knee pain, headaches and neck pain as well as ankle pain and pain in both upper extremities as has been documented in the documentation. The claimant's MRI showed multiple degenerative changes and disc annular tears that could not possibly be related or caused by the injury of \_\_\_\_\_ as described. The claimant was noted to be about 53 years of age when the injury occurred and degenerative changes are to be expected in an individual of this age. The claimant also underwent electrodiagnostic studies which were negative despite the claimant's vague subjective complaints of bilateral foot numbness and leg symptoms as well as upper extremity symptoms. The claimant was not deemed to be a surgical candidate and has undergone more than the appropriate amount of care given the nature of the injury. \_\_\_\_\_ has also discussed the topic of permanent impairment and "lifetime benefits" in his more recent letters. I would like to state that lifetime medical benefits under Texas Workers' Compensation are based on medical necessity and relatedness. The medical necessity and relatedness of ongoing care has not been established in this case because the claimant has multiple symptoms involving non-compensable body areas and what has been described as profound psychological overlay. When an injured worker is found to be at maximum medical improvement as occurred in this case twice and is rendered impairment rating, it is assumed that even though the claimant may have "permanent" impairment, it also means the claimant's clinical status is also stationary and not likely to change with ongoing or further treatment. Ongoing or future "lifetime care" to maintain the status quo is not reasonable or medically necessary especially in this particular instance when it is highly unlikely the claimant's ongoing problems are remotely related to the \_\_\_\_\_ injury. This claimant has psychological overlay and a pre-existing degenerative lumbar spine condition as well as a large amount of non-injury related symptoms. She is divorced with 4 children and

has a smoking habit, which by the way contributes to a 50% reduction in intervertebral disc vascular circulation. This is well documented in the medical literature. To attribute this 56 year old claimant's low back problems to the one time bending injury of \_\_\_\_\_ is rather unreasonable and not within the realm of medical probability especially in the presence of a relatively poor health history which includes a myriad of non-injury related complaints involving the entire body. The claimant's ongoing low back pain and other symptoms are likely related to normal life processes and events just the same as are her other multiple complaints and psychological issues.