

MDR Tracking Number: M5-03-3249-01

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 8-12-03.

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 \$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, kinetic activities, electrical stimulation, and ultrasound were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The above Findings and Decision are hereby issued this 24th day of October 2003.

Dee Z. Torres
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 1-20-03 through 3-11-03 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 24th day of October 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dzt

October 16, 2003

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-03-3249-01

___ 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 52 year-old male who sustained a work related injury on ___. The patient reported that while at work a bucket from a bulldozer was lowered onto his fingers. The patient reported that he instinctively tried to pull his fingers out when he injured his back, neck, right shoulder and fingers. The patient has undergone 4 shoulder surgeries as well as lumbar surgery. The diagnoses for this patient include internal derangement of the right shoulder and s/p rotator cuff surgery that was performed on 11/27/02. Shoulder surgery performed on 11/27/02 consisted of arthroscopy, internal and external manipulation of the shoulder, clean out of the glenohumeral joint with partial excision of labral tears, synovectomy, chondroplasty, thermal capsulorrhaphy, partial acromionectomy with partial excision of the distal clavicle and reefing of the supraspinatus. Post surgically the patient was treated with rehabilitation that included therapeutic procedures, kinetic activities, electrical stimulation and ultrasound.

Requested Services

Therapeutic procedures, kinetic activities, electrical stimulation and ultrasound from 1/20/03 through 3/11/03.

Decision

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

Rationale/Basis for Decision

The ___ chiropractor reviewer noted that this case concerns a 52 year-old male who sustained a work related injury to his back, neck, right shoulder and fingers. The ___ chiropractor reviewer explained that this patient has had severe injuries to the shoulder and low back. The ___ chiropractor reviewer indicated that this patient has undergone a total of 5 surgeries. The ___ chiropractor reviewer explained that this patient requires extensive therapy to reach maximum medical improvement. The ___ chiropractor reviewer also explained that the patient began treatment with this treating physician in late December. The ___ chiropractor reviewer noted that a progress note dated 3/19/03 indicated that the patient has showed increased range of motion and strength in his shoulder. The ___ chiropractor reviewer explained that this documentation is positive objective evidence that the therapy is beneficial to this patient. Therefore, the ___ chiropractor consultant concluded that the therapeutic procedures, kinetic activities, electrical stimulation and ultrasound from 1/20/03 through 3/11/03 were medically necessary to treat this patient's condition.

Sincerely,