

MDR Tracking Number: M5-03-3306-01

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 18, 2003.

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 \$460.000** 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 office visits, therapeutic exercises, joint mobilization, reports, ultrasound and massage from 3/4/03 through 5/12/03 were found to be medically necessary. The office visits, therapeutic exercises, joint mobilization, reports, ultrasound and massage for dates of service 5/13/03 through 6/25/03 were not medically necessary. The respondent raised no other reasons for denying reimbursement of the office visits, therapeutic exercises, joint mobilization, reports, ultrasound and massage charges.

This Findings and Decision is hereby issued this 28<sup>th</sup> day of October 2003.

Margaret Q. Ojeda  
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 3/4/03 through 5/12/03 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 28<sup>th</sup> day of October 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
MQO/mqo

October 24, 2003

## NOTICE OF INDEPENDENT REVIEW DECISION

**RE: MDR Tracking #: M5-03-3306-01**

\_\_\_ 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 53 year-old female who sustained a work related injury on \_\_\_. The patient reported that while at she experienced a painful pop in the right shoulder when she was lifting a heavy cart at work. The patient underwent an MRI that indicated impingement but no complete tear of the rotator cuff. The patient was then treated with injection, medication and physical therapy. A repeat MRI indicated hypertrophic change in the AC joint impinging on the rotator cuff. On 10/29/02 the patient underwent arthroscopy with subacromial decompression and debridement of the glenohumeral joint. Postoperatively the patient was treated with physical therapy and oral medications. The patient's current diagnosis is right shoulder impingement with adhesive capsulitis.

### Requested Services

Office visits, therapeutic procedures, joint mobilization, reports, ultrasound and massage from 3/4/03 through 6/25/03.

### 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 \_\_\_ physician reviewer noted that this case concerns a 52 year-old female with a history of right shoulder injury. The \_\_\_ physician reviewer indicated that the patient sustained a reinjury to the right shoulder on \_\_\_. The \_\_\_ physician reviewer noted that the patient was treated initially with conservative treatment including physical therapy. The \_\_\_ physician reviewer also noted that the patient underwent an MRI and then surgery on 10/29/02. The \_\_\_ physician reviewer indicated that postoperatively the patient received extensive physical therapy that included exercises, myofascial release and ultrasound. The \_\_\_ physician reviewer explained that the patient showed some improvement in passive and active range of motion in the right shoulder with treatment. The \_\_\_ physician reviewer noted that the ultrasound was discontinued on 3/27/03 and that between 5/12/03 and 6/17/03 the patient showed minimal gain in range of motion. The \_\_\_ physician reviewer explained that the patient could have continued home exercise program to increase range of motion/strength in right shoulder after 5/12/03. The \_\_\_ physician reviewer indicated that the patient had extensive physical therapy prior to 5/12/03 and was able to perform exercises at home. The \_\_\_ physician reviewer explained that the physical therapy was appropriate up to 5/12/03, however after 5/12/03 the patient should have been discharged to a home exercise program with periodic follow up with the treating physician. Therefore, the \_\_\_ physician consultant concluded that the office visits, therapeutic procedures, joint mobilization, reports, ultrasound and massage from 3/4/03 through 5/12/03 were medically necessary to treat this patient's condition. However, the \_\_\_ physician consultant also concluded that the office visits, therapeutic procedures, joint mobilization, reports, ultrasound and massage from 5/13/03 through 6/25/03 were not medically necessary to treat this patient's condition.

Sincerely,