

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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 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(q)(9), the Commission hereby orders the respondent (non-prevailing party) to **refund the requestor \$460.00** for the paid IRO fee.

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 x-rays were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the x-rays.

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 date of service 9-4-01 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 2nd day of July 2002.

Dee Z. Torres, Medical Dispute Resolution Officer
Medical Review Division

DZT/dzt

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and subsequently re-delegated by Virginia May, Deputy Executive Director.

April 24, 2002

Texas Workers' Compensation Commission
David R. Martinez, Chief
Medical Dispute Resolution
4000 South IH-35, MS 40
Austin, TX 78704-7491

Re: Medical Dispute Resolution
MDR #: M5-02-1960-01
IRO Certificate No.: IRO 5055

Dear :

___ 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. Your case was reviewed by a practitioner of Chiropractic Medicine.

THE PHYSICIAN REVIEWER OF THIS CASE DISAGREES WITH THE DETERMINATION MADE BY THE CARRIER ON THIS CASE.

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.

We are forwarding herewith a copy of the referenced Medical Case Review with reviewer's name redacted

Sincerely,

MEDICAL CASE REVIEW

This is for ___. I have reviewed the medical information forwarded to me concerning Case File #M5-02-1960-01, in the area of Chiropractic. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Medical Dispute Resolution request/response.
2. Table of disputed services.
3. Two letters from ___, explaining their position in denying compensation.
4. MDR position statements from ___.
5. Records, test results, and reports -- 58 pages.

B. SUMMARY OF EVENTS:

The patient was injured on the job on ___. The records indicate he was walking down a flight of stairs and slipped and fell, causing him to tumble down two flights of stairs. He complained of low back pain and left knee pain after the fall. He was transported by ambulance to ___ for emergency treatment. Exam and x-rays were taken. The patient was prescribed Vioxx for pain and inflammation, ice and rest, and was released with instructions to follow up with ___ if not better in ten days.

The patient continued to experience problems which necessitated his seeking care with ___ of ___ on August 28, 2001. At that time, examination, evaluation, and x-rays were taken to rule out pathologies, trauma, fractures, and/or congenital anomalies prior to chiropractic treatment. Based upon ___ clinical evaluation and findings, he felt it was medically necessary to submit x-rays taken in his office to the radiologist for follow-up review. In addition, a treatment plan was formulated, and recommendations made for an MRI of the lumbar spine to rule out or confirm a herniated nucleus pulposus and an MRI of the left knee to rule out internal derangement. In addition, ___ felt it was medically necessary to refer this patient to ___ for further evaluation and possible medication.

This patient was seen on August 29, 2001, by ___ who recommended continued conservative treatment, medication, as well as additional diagnostic imaging in the form of an MRI of the lumbar spine and left knee. The MRI of the left knee and the lumbar spine were performed at ___ MRI on August 31, 2001. Significant positive findings were present on the left knee MRI, and records indicate surgical intervention was recommended. The lumbar spine MRI report revealed mild facet joint space narrowing and a 1.0 mm eccentric bulge of the annulus on the right and left of midline at L4-L5, which is indicative of mild disk edema. In addition, a report from ___ a Board certified radiologist, of ___, dated September 4, 2001, regarding films taken by ___ on August 28, 2001, revealed lumbar spine postural alterations and no significant bony abnormalities in the left knee.

C. OPINION:

I DISAGREE WITH THE DETERMINATION MADE BY THE UTILIZATION REVIEW AGENT ON THIS CASE.

Reviewing the file indicated the patient was injured on the job and presented to ___ on 8/28/01 with primary subjective symptoms of low back pain and left knee pain. Examination and x-rays were performed on this patient and, based upon these findings, ___ determined it to be medically necessary to have these x-rays evaluated and reviewed by a radiologist. Apparently, these x-rays were forwarded to ___ of ___. He performed an x-ray consultation and rendered a written report dated 9/04/01. I am not completely clear as to the reason why the date of the report is 9/04/01 and the date of the films is 8/28/01. A logical explanation would be the necessary time of transporting the films to the radiologist's office, the radiologist's caseload, as well as that period of time apparently overlapped the Labor Day holiday weekend. Regardless of the time factor, a written report was performed and forwarded to the treating doctor.

In rendering my opinion, I utilized the Texas Labor Code Rules and TWCC Treatment Guidelines. The description of the medical code in dispute was CPT Code 76140, which is described as "Consultation on x-rays made elsewhere, written report." This code is the type of consultation that is used when a physician's opinion or advice regarding a specific film is requested by another physician, and upon

examination of the film or films, the consulting physician provides his or her opinion or advice to the requesting physician in the form of a written report. The insurance carrier raises the question as to the medical necessity of this service by indicating that x-rays were taken at ___, as well as by ___ in his office on 8/28/01. They indicated they had already paid both the professional and technical component of the associated x-rays, billed for under CPT Code 72100. While this is true, there are two separate distinct codes accepted throughout the medical/chiropractic profession and authorized for use by the TWCC fee guidelines. Therefore, the previous films taken at ___ have no bearing on the CPT Code 76140.

In summary, the records show x-rays of the lumbar spine and left knee were taken by ___ on 8/28/01, and he, as the treating doctor, requested that ___ of ___ review said x-ray films for the purpose of obtaining a second opinion. It is my opinion that the request for x-ray consultation on the above patient by ___ was medically necessary to assist ___ in the formulation of his treatment plan, thereby promoting recovery of this patient's injury in an attempt to enhance the ability of the employee to return to gainful employment.

D. DISCLAIMER:

The opinions rendered in this case are the opinions of this evaluator. This medical evaluation has been conducted on the basis of the documentation as provided to me with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional service, reports or consideration may be requested. Such information may or may not change the opinions rendered in this evaluation. My opinion is based on the clinical assessment from the documentation provided.

Date: 22 April 2002