MDR Tracking Number: M5-02-2226-01

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

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 all the services performed and billed on 8-6-01 were not medically necessary.

Based on review of the disputed issues within the request, the Division has determined that the medical necessity fees were the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for date of service 08-06-01 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 28th day of May 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.

Enclosure: IRO decision

May 21, 2002

Re: Medical Dispute Resolution
MDR #: M5-02-2226-01

___ 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. This case was reviewed by a doctor who is Board Certified in Orthopedic Surgery.

THE PHYSICIAN REVIEWER OF THIS CASE AGREES WITH THE DETERMINATION MADE BY THE INSURANCE 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 TWCC Case #M5-02-2226-01, in the area of Orthopedic Surgery. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Carrier's Position Statement.
2. Requests for reconsideration.
3. Correspondence and office notes of ___, and other treating physicians.
4. Imaging records.
5. Review and opinion by ___, and other examiners.

B. SUMMARY OF EVENTS:

This 63-year-old patient reported injuring his back in a lifting incident on ___. He saw several physicians, had x-rays and an MRI, physical therapy, braces, medications, and injections. He has not been able to return to work. Maximum medical improvement was determined 2 June 1998, and he continues under the care of ___, who is requesting review of denial of payment for service he rendered the patient on 6 August 2001.

C. OPINION:

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

2. Treatment had already been continued for 26 months past the agreed upon date of maximum medical improvement, without evidence of further improvement and no reasonable expectation that additional treatment could effect a cure.

3. Whether the findings (clinical and imaging observations) confirm a work-related compensable injury is not a question here; that was previously determined. The question here is whether it is reasonable to continue compensated treatment indefinitely; that is, was the compensation for service provided by ___ on 6 August 2001 still the responsibility of this carrier. Although I find appropriate the examination and treatment related to the spinal diagnosis previously declared work-related, I have to agree with ___ report as the patient had reached the accepted point of maximum medical improvement, and was not a surgical candidate.

4. Treatment already had been continued 26 months after the accepted date of maximum medical improvement (6/02/98) at the time of the contested service (8/06/01), without evidence or reason to anticipate further improvement.

D. ADDITIONAL COMMENTS:

A letter from ___ in behalf of ___ claim, dated 17 January 2002, raises a separate but related question: "Patients are entitled to lifetime medical under the Act" (Texas Worker's Compensation Act). The appropriateness of application of this statement here is a legal question I am not qualified to answer, and about which I have no opinion; that is, is this carrier responsible for lifetime maintenance care of this patient's back complaint?

E. 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: 20 May 2002