

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 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 disputed aquatic therapy was found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

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 11/28/01 through 12/3/01.

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 14th day of February 2003.

Noel L. Beavers  
Medical Dispute Resolution Officer  
Medical Review Division

NLB/nlb

January 31, 2003

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

MDR Tracking #: M5-02-2274-01  
IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

#### CLINICAL HISTORY

\_\_\_ injured his lumbar and thoracic spine on \_\_\_ while working on the job at \_\_\_. He was taken to \_\_\_ following the injury. He was x-rayed, prescribed medication and physical therapy. He changed treating doctors to \_\_\_ after passive physical therapy did not help. On 11/19/01 he saw \_\_\_, who diagnosed displacement of lumbar intervertebral disc without myelopathy, facet syndrome, and thoracic/lumbosacral neuritis. \_\_\_ determined that the patient's status and clinical indicators placed \_\_\_ treatment status in the Intermediate Phase of Care, according to the spine treatment guidelines. The patient remained off work. As a part of \_\_\_ treatment, he was prescribed aquatic therapy exercises.

#### DISPUTED SERVICES

Under dispute is the aquatic therapy prescribed for \_\_\_.

## DECISION

The reviewer disagrees with the prior adverse determination.

### BASIS FOR THE DECISION

Upon review of the documentation provided, the reviewer has determined that the aquatic therapy exercises provided by \_\_\_ was medically necessary.

The documentation supplied by \_\_\_ supports the level of care rendered from 11/28/01 through 12/3/01. The Intermediate Phase of Care of the Spine Treatment Guidelines is for individuals that have not returned to productivity after the normal healing process. The phase is designed to facilitate return to productivity, including return to work in either full or modified duty, before the onset of a chronic condition. The reviewer finds that aquatic therapy exercises meet the spine treatment guidelines under Intermediate Phase of Care. The care rendered by \_\_\_ was necessary to enhance \_\_\_ ability to return to his job duties and maintain them as a productive employee.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,