

MDR Tracking Number: M5-02-2500-01

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 the chiropractic treatment/services (including therapeutic activities/exercises, home management training, Aquatic therapy and physical medicine and rehabilitation) rendered were not medically necessary.

Based on review of the disputed issues within the request, the Division has determined that chiropractic treatment/services fees were the only fees involved in the medical dispute to be resolved. As the treatment, (chiropractic treatment/services) was not found to be medically necessary, reimbursement for dates of service from 11/26/01 through 12/19/01 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 3rd day of October 2002.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

CRL/crl

#### NOTICE OF INDEPENDENT REVIEW DECISION

August 21, 2002

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
4000 South IH-35, MS 48  
Austin, TX 78704-7491

RE: MDR Tracking #: M5-02-2500-01  
IRO Certificate #: 4326

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers Compensation Commission (TWCC) has

assigned the above referenced 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 rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

### Clinical History

This 23 year old male sustained a work-related injury on \_\_\_ when he was lifting some pieces of wood and experienced some pain to his low back. The patient was sent to a company doctor who prescribed some palliative care and sent him back to work. X-rays performed on 10-25-01 were interpreted by the treating chiropractor as multi-level vertebral wedging and some rotation in the lumbar spine. In addition, the x-rays indicated narrowing of the intervertebral foramen at L4/5 and L5/S1. An MRI was performed on 11-15-01, which indicated a 2mm broad-based disc bulge at L4/5 with no neural compromise as well as a 3mm-disc herniation at L5/S1. The patient was evaluated by an orthopedic surgeon and was prescribed medications, physical therapy, and rehabilitation in the form of active modalities. A comprehensive active treatment program was initiated on 11-26-01 lasting through 12-19-01 including therapeutic activities, home management training, therapeutic exercises, aquatic therapy with therapeutic exercises and physical medicine and rehabilitation services.

### Requested Service(s)

- 97530 – Therapeutic activities – billed from 11-26-01 through 12-19-01
- 97540 – Home management training – billed from 11-26-01 through 12-19-01
- 97110 – Therapeutic exercises - billed from 11-26-01 through 12-19-01
- 97113 – Aquatic therapy - billed from 11-26-01 through 12-19-01
- 97799 – Physical medicine and rehabilitation – billed from 11-26-01 through 12-19-01

### Decision

It is determined that the following services were not medically necessary to treat this patient's condition:

- 97530 – Therapeutic activities – billed from 11-26-01 through 12-19-01
- 97540 – Home management training – billed from 11-26-01 through 12-19-01

97110 – Therapeutic exercises - billed from 11-26-01 through 12-19-01  
97113 – Aquatic therapy - billed from 11-26-01 through 12-19-01  
97799 – Physical medicine and rehabilitation – billed from 11-26-01 through 12-19-01

### Rationale/Basis for Decision

The medical record documentation does not indicate that the injury was anything other than a simple lumbar sprain/strain. The electro-diagnostic findings suggested that the patient's radiculopathy was chronic in nature and not acute, suggesting that the radiculopathy itself had been long standing.

The patient continued to work in another job, which places the purpose for the comprehensive approach to the active care in question. Typically, active rehabilitation is done to prepare an injured worker to be able to return to their pre-employment work status.

There is no significant comparative objective data to show what response to care had been achieved up to the point in time that the active care had been initiated. Similarly, there is no comparative objective data to show what the response to care was while in active therapy. This information would be vital in determining the reasonableness and medical necessity of the care being rendered or the necessity of additional or upper level of care.

There was no evaluation to determine the functional limitations that the patient had at the time of initiating the comprehensive active care. A functional capacity evaluation (FCE) or physical performance evaluation would give some clear indications as to the justification and substantiation of the need for this comprehensive approach to active care. Additionally, without the base level data that would be obtained in a pre-admission FCE, there are no clearly defined goals or other indications of what is hoped to be gained by the comprehensive approach to the active care as described in the documentation. Therefore, the 97530 therapeutic activities, 97540 – home management training, 97110 – therapeutic exercises, 97113 – aquatic therapy, and 97790 – physical and rehabilitation services billed from 11-26-01 through 12-19-01 were not medically necessary.

Under the provisions of Section 413.31 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 the chiropractic treatment/services (including therapeutic activities/exercises, home management training, Aquatic therapy and physical medicine and rehabilitation) rendered were not medically necessary.

Based on review of the disputed issues within the request, the Division has determined that chiropractic treatment/services fees were the only fees involved in the medical dispute to be resolved. As the treatment, (chiropractic treatment/services) was not found to be medically necessary, reimbursement for dates of service from 11-26-01 through 12-19-01 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 3<sup>rd</sup> day of October 2002.

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