

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, the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare and therefore, the **requestor did not prevail** in the IRO decision. Consequently, the requestor is not owed a refund of 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 therapies through date of service 12/27/01 (including gait training, therapeutic procedures, neuromuscular re-education and kinetic activities) office visits, and range of motion on 2/19/02 were found to be medically necessary. The remaining therapies were not found to medically necessary. The respondent raised no other reasons for denying reimbursement for these therapies, office visits and range of motion charges.

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 12/17/01 through 4/26/02. 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 13th day of January 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/crl

December 11, 2002

Texas Workers' Compensation Commission
Medical Dispute Resolution
4000 South IH-35, MS 48
Austin, TX 78704-7491

Re: Medical Dispute Resolution
MDR#: M5-02-3039-01
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. This case was reviewed by a physician who is certified in Chiropractic medicine.

Clinical History:

This male claimant received extensive treatment, both active and passive for an injury to his lower back on ___. He received a 5% impairment rating in July 2002.

Disputed Services:

Office visits, physical therapy and range of motion test from 12/17/01 through 04/26/02.

Decision:

The reviewer partially agrees with the determination of the insurance carrier. The reviewer is of the opinion that the course of active therapy, including gait training (97116), therapeutic procedures (97110), neuromuscular re-education (97112) and kinetic activities (97530) **were medically necessary through 12/27/01**. The reviewer is of the opinion that all office visits (99213) during the period 12/17/01 through 04/26/02, as well as the range of motion test (95851) on 02/19/02, **were medically necessary**.

Rationale for Decision:

This patient received over five (5) months of treatment for his condition. A re-evaluation report on 12/27/01 of the current progress with his treatment revealed that he still had deficits in lumbar extension and lumbar muscle strength, positive orthopedic tests, marked pain and discomfort doing activities of daily living, and decreased job demand level functioning.

According to the *North American Spine Society Clinical Guidelines for Multi-Disciplinary Spine Care Specialists (2000)*, the treatment phase the patient was in on 12/27/01 was the tertiary phase of specialized care. According to this guideline, the tertiary phase is a chronic phase of symptoms and a loss of function following symptom onset or recurrence beginning after an anticipated healing period, usually not before three to six months following symptom onset. Clinical indicators for this phase include documented history of failure to respond to non-operative treatment which surpasses the usual healing period of more than four to six months post injury, and inhibition of daily living requirements and heavy or repetitive job demands with inability to match physical capacity to work requirements after adequate treatment, causing inability to sustain uninterrupted work. These guidelines recommend a patient in this phase to be entered into some sort of structured interdisciplinary program that is intensive and medically directed, such as a pain management, work conditioning, or work hardening program.

There was no clinical indication supporting the medical necessity for continuing a course of active therapy after 12/27/01, which included gait training, neuromuscular re-education, kinetic activities and therapeutic procedures. These activities, in particular, were not medically necessary due to the fact that the patient had no clinical findings upon examination (footdrop, gait derangement, proprioceptive problems, or balance problems) to justify having the patient perform those activities.

However, the range of motion testing was medically necessary as an evaluative tool to test the patient's progress. In addition, the office visits were medically necessary in order to assess and examine the patient each visit and for communication between the patient and the physician.

I am ___ 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 who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,