

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 carrier has paid for disputed services from 12/26/01 through 2/15/02. Only the services from 9/13/01 through 12/14/01 remain in dispute. The amount to be reimbursed the requestor for the medically necessary services exceed those services not medically necessary. Therefore, 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 therapy, joint mobilization, DME and supplies from 11/12/01 through 1/16/02 were found to be medically necessary. The application of analgesic rub on all visits from 9/13/01 through 2/15/02 and the office visits and joint mobilization from 9/13/01 through 11/11/01 were not medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 21st day of March 2003.

Noel L. Beavers  
Medical Dispute Resolution Officer  
Medical Review Division

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 9/13/01 through 12/14/01.

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 21st day of March 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

March 12, 2003

**NOTICE OF INDEPENDENT REVIEW DECISION  
Addendum to Determination**

**RE: MDR Tracking #: M5-03-0221-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the \_\_\_ external review panel. The \_\_\_ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 43 year-old male who sustained a work related injury to his back on \_\_\_. The patient reported that while at work as a driver, he was off loading computers and felt a popping sensation with immediate low back pain. The patient had an MRI that showed a disc herniation at L4-L5. The patient was treated with physical therapy and pain medications. The patient has also undergone an L4-L5 laminectomy, discectomy and posterior lumbar interbody fusion using titanium fusion cage, L5-S1 laminectomy, L4 to sacrum posterior fusion using Silhouette screw and rod system, Harvest right posterior iliac crest bone graft for use with fusion. Post operative physical medicine and therapy were prescribed.

Requested Services

Office visits, physical therapy, durable medical equipment, joint mobilization, and supplies from 9/13/01 through 2/15/02.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

### Rationale/Basis for Decision

The \_\_\_ chiropractor noted that the patient sustained a work related injury to his back on \_\_\_. The \_\_\_ chiropractor reviewer explained that the patient was treated with an over the counter rub that could have bought by the patient or given to him, and then applied at home. The \_\_\_ chiropractor reviewer also explained that there was no therapeutic benefit from 9/13/01 through 11/11/01 because no other treatment was rendered to the patient at these visits. The \_\_\_ chiropractor reviewer noted that the patient was cleared to start physical therapy and rehabilitation on 11/9/01. The \_\_\_ chiropractor reviewer explained that the 24 visits from 11/14/01 through 1/16/02 were appropriate. However, the \_\_\_ chiropractor reviewer noted that the patient was not improving as expected due to a non-fusion of his pseudo-arthritis. The \_\_\_ chiropractor reviewer explained that manipulations and other therapies are not warranted after 1/16/02. The \_\_\_ chiropractor reviewer also explained that the patient needed new imaging to determine the failure to fuse. The \_\_\_ chiropractor reviewer noted that the patient was treated with extensive therapy prior to the surgery with only temporary relief. The \_\_\_ chiropractor reviewer explained that there is no need to continue long-term therapy without results past 8 weeks of the therapy starting. Therefore, the \_\_\_ chiropractor consultant has concluded that the 24 treatments of therapy, joint mobilization, DME and supplies from 11/12/01 through 1/16/02 were medically necessary to treat this patient's condition. However, the \_\_\_ chiropractor consultant concluded that the application of analgesic rub on all visits from 9/13/01 through 2/15/02 and the office visits and joint mobilization from 9/13/01 through 11/11/01 were not medically necessary to treat this patient's condition.

Sincerely,

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