

MDR Tracking Number: M5-03-2187-01

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 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 office reports, required reports, hot/cold packs, unattended electric stimulation, massage and ultrasound were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these office reports, required reports, hot/cold packs, unattended electric stimulation, massage and ultrasound 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 2/21/03 through 3/21/03 in this dispute.

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 22nd day of July 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/crl

July 18, 2003

Re: Medical Dispute Resolution
MDR #: M5-03-2187-01
IRO Certificate No.: IRO 5055

___ 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 injured his lumbar spine in a work-related accident on ___, resulting in immediate pain. The claimant initiated chiropractic therapeutics on 12/18/02. MRI of the lumbar spine on 01/13/03 revealed L2-3 parasagittal focal subligamentous herniation measuring 3-4 mm, L4-5 right posterior lateral neuroforaminal protrusion measuring 3 mm, and L5-S1 small broad-based protrusion measuring 2 mm. Epidural steroid injections (ESI's) were performed over the lumbar spine on 02/06/03, and on 03/27/03. FCE was performed on 03/28/03, which revealed that the patient has not met his stated work physical demands and that pain compromised a great degree of the testing performed. The provider applied physical therapy applications from 02/21/03 through 03/21/03.

Disputed Services:

Office reports, required reports, hot/cold packs, unattended electric stimulation, massage, and ultrasound during the period of 02/21/03 through 03/21/03.

Decision:

The reviewer disagrees with the determination of the insurance carrier. The reviewer is of the opinion that the services and treatments in question were medically necessary in this case.

Rationale:

The treatment records indicate that the patient remained off work with this injury for nearly four months prior to beginning chiropractic treatment. A multi-disciplinary treatment algorithm was activated in a proper fashion. The patient was set for invasive pain controls (ESI) on 02/06/03 and on 03/27/03. Applications of passive modalities constructively utilized by the therapist to implement higher-level active therapeutics are appropriate. This is apparent by the treating providers' implementation of functional baseline testing performed on 03/28/03.

The aforementioned information has been taken from the following peer-reviewed references and clinical practice guidelines:

- *Ciriello, V.M., Snook, S.H., The Effect of Backbelts on Lumbar Muscle Fatigue, Spine*, 1995 June 1; 20(11):1271-8; Discussion 1278.
- *Clinical Practice Guidelines for Chronic Non-Malignant Pain Syndrome Patients II: An Evidence-Based Approach. J. Back Musculoskeletal Rehabil.*, 1999, Jan 1, 13: 47-58.
- *Unremitting Low Back Pain, North American Spine Society Phase III Clinical Guidelines for Multi-Disciplinary Spine Care Specialists.* North American Spine Society; 2000, 96p.

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.

Sincerely,