

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General 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 dispute was received on 10-20-03.

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(r)(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 visits, hot/cold packs, electric stimulation, myofascial release, cervical pillow, DME, therapeutic exercises and ultrasound therapy were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 03-05-03 through 03-28-03 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 29th day of December 2003.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Date: December 19, 2003

RE: MDR Tracking #: M5-04-0523-01
IRO Certificate #: 5242

___ 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 proposed 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 Chiropractor who has a temporary ADL exemption. The Chiropractor 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

According to the documentation, the claimant was injured when a large cattle gate came off a tractor. The chain of the gate slipped and the gate fell on top of the claimant. It was stated in the documentation the claimant was able to get out from under the gate but it did injure his neck and lumbar spine. The claimant underwent various MRI evaluations of the neck and low back. The claimant did undergo some physical therapy and x-rays through 2/10/02. A needle electromyogram reportedly showed the presence of an L4/5 radiculopathy on the right and left. It appears the claimant underwent epidural steroid injections of the lumbar spine which reportedly gave the claimant minimal improvement. The claimant ended up undergoing an anterior cervical discectomy and interbody fusion at the C6/7 level of the cervical spine. It appears the claimant did not undergo any physical therapy in the post operative setting until perhaps March 2003. The claimant underwent a designated doctor evaluation on 1/24/03 with ____. It was felt the claimant was not at maximum medical improvement and that he would potentially be at maximum medical improvement on 4/25/03. It was also stated in the designated doctor report the claimant was only 4 months status post cervical surgery and his lower back had not really been addressed, therefore it was thought the claimant was not at maximum medical improvement. It was felt that if the claimant did not need low back surgery then he would be at maximum medical improvement within 3 months which would be 4/25/03. The claimant was also seeing ____. The claimant was seeing ____. Both of these physicians recommended physical therapy at 3 times per week for 2 weeks during the March 2003 time frame. The claimant did have a past history of an L4/5 fusion surgery back in 1990.

Requested Service(s)

The medical necessity of outpatient services including office visits, hot/cold packs, electric stimulation, myofascial release, cervical pillow, durable medical equipment, therapeutic exercises and ultrasound therapy dated 3/5/03 through 3/28/03.

Decision

I disagree with the insurance carrier and find that the services in dispute were medically necessary.

Rationale/Basis for Decision

The documentation suggests that prior to March 2003 the claimant had not received any form of post operative physical therapy following his neck fusion surgery. The 3/21/03 chiropractic re-evaluation also revealed the claimant showed objective and subjective progression during a short initial trial of chiropractic care and rehabilitation during the March 2003 time frame. It should also be mentioned that ___ and ___ recommended and prescribed physical therapy at 3 times per week for 2 weeks during this time frame. The designated doctor also estimated maximum medical improvement to be by 4/25/03 and the dates of service fall prior to this estimation of maximum medical improvement date. Therefore, we have at least 3 surgeons who felt the claimant was not yet at maximum medical improvement and needed further treatment.