

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-04-3637.M5

MDR Tracking Number: M5-04-0677-01

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 (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 November 3, 2003.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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 exercises, joint mobilization, therapeutic exercise, and office visits were found to be medically necessary from 03/26/03 through 04/14/03. The exercises, joint mobilization, therapeutic exercise, and office visits from 04/17/03 through 05/16/03 were not 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 03/26/03 through 04/14/03 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 January 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

PR/pr

January 19, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: MDR #: M5-04-0677-01
IRO Certificate No.: 5055

REVISED REPORT
Corrected date of service in Decision & Rationale

___ 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 patient was injured on the job on ____. He was treated for his injuries to the lumbar spine. The record states that the patient underwent treatment that included physical therapy, chiropractic treatment, massage therapy, and injections prior to seeing a designated doctor on January 15, 2003. The designated doctor stated that the patient was not at maximum medical improvement at that time. An orthopedic evaluation performed on April 16, 2003 stated that the patient had undergone 12 weeks of stretching, strengthening, and conditioning, 1 lumbar epidural steroid injection, and 15-24 VAX-D treatments. By the time of this orthopedic evaluation, the patient had undergone treatment from June of 2002 through April of 2003, which consisted of physical therapy, chiropractic treatment, epidural steroid injections, VAX-D treatments, and massage therapy, and yet, his pain level on office visit dated April 14, 2003 was still a 5 on a 10 scale. In addition, he still had weakness in L5-S1 motor nerve unit and restricted motion of the lumbar spine that had not improved since his last visit.

Disputed Services: Exercises, joint mobilization, therapeutic exercise, and office visits during the period of 03/26/03 through 05/16/03.

Decision: "The reviewer partially agrees with the determination of the insurance carrier and is of the opinion that the services and treatments in disputed as stated above were medically necessary from 03/26/03 through 04/14/03. The disputed services and treatments during the period of 04/17/03 through 05/16/03 were not medically necessary in this case.

Rationale: According to the North American Spine Society Treatment Guidelines, a patient that is in the tertiary phase of care has clinical indicators, which include documented history of persistent failure to respond to non-operative treatment, which surpasses the usual healing time of more than 4-6 months post injury, and heavy or repetitive job demands with inability to match physical capacity to work requirement after presumed adequate treatment causing inability to sustain uninterrupted work or recreation.

A patient fitting these clinical indicators is considered a chronic patient that should be in the tertiary phase of care utilizing an interdisciplinary post-treatment. It is clear that being more than 10 months post-injury and receiving substantial treatment, that the patient's recovery had hit a plateau and had become chronic in nature, and further continuation of that current treatment would not be beneficial to the patient. In short, after reviewing the records provided, treatments provided after April 14, 2003 were not medically necessary to treat this patient; therefore, treatments from March 26, 2003 through April 16, 2003 were medically necessary to treat this patient.

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,