

MDR Tracking Number: M5-04-0971-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 12-03-03.

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 aquatic therapy was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The respondent has reimbursed the requestor for dates of service 07-01-03, 07-08-03, 07-10-03 and 07-22-03 plus accrued interest as verified by check numbers 38008130, 38008131, 38008132, 38001294, 38001294, 38001295 and 38001296.

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 07-29-03 and 07-31-03 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 4<sup>th</sup> day of May 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

**REVISED 4/30/04**

February 10, 2004

MDR Tracking Number: M5-04-0971-01  
IRO Certificate# 5259

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by \_\_\_\_, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_\_.

CLINICAL HISTORY

Available information suggests that this patient reports injury occurring while at work on \_\_\_\_ while lifting a load on to a plane. The patient underwent extensive physical therapy and series of epidural injections prior to requiring lumbar fusion surgery on 2/5/03. The patient is referred for physical therapy evaluation on 6/17/03 suggesting considerable persisting functional deficits including pain with most weight bearing activities.

REQUESTED SERVICE (S)

Determine medical necessity for aquatic therapy concerning dates in dispute 7/01/03 through 7/31/03.

DECISION

There is sufficient documentation to support medical necessity for aquatic therapy for this patient.

RATIONALE/BASIS FOR DECISION

There is sufficient documentation to support medical necessity for an aquatic therapy program of this nature. Physical therapy notes and evaluations suggest that this injured worker is unable to return to pre-injury work levels, and demonstrates persisting functional deficits including pain with most weight bearing activities. Active therapeutic

exercise in an aquatic environment would be considered an appropriate rehabilitation intervention for this patient with post-surgical residuals.

- A. Bates, N. Hanson, et al., Aquatic Exercise Therapy, WB Saunders Pub. 1996.
- B. R. Sova et al., Essential principals of Aquatic Therapy and Rehabilitation, OSCHON 2000.
- C. R.G. Routi, Aquatic Rehabilitation, Lippincott Williams & Wilkins Publishers; 1<sup>st</sup> edition (January 15, 1997).

The observations and impressions noted regarding this case are strictly the opinions of this evaluator. This evaluation has been conducted only on the basis of the medical/chiropractic documentation provided. It is assumed that this data is true, correct, and is the most recent documentation available to the IRO at the time of request. If more information becomes available at a later date, an additional service/report or reconsideration may be requested. Such information may or may not change the opinions rendered in this review.

This review and its findings are based solely on submitted materials. No clinical assessment or physical examination has been made by this office or this physician advisor concerning the above-mentioned claimant. These opinions rendered do not constitute a per se recommendation for specific claims or administrative functions to be made or enforced.