

MDR Tracking Number: M5-04-1028-01

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 December 8, 2003.

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 electrical stimulation, hot/cold packs, office visits, manual traction therapy, myofascial release, neuromuscular reeducation, joint mobilization and medical report were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This findings and decision is hereby issued this 1st day of March 2004.

Patricia Rodriguez
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 12/09/02 through 02/17/03 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 1st day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/pr

February 20, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-1028-01

___ 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 reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. 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 55 year-old male who sustained a work related injury on ___. The patient reported that while at work he was attempting to lift a heavy object from the ground when he began to experience back pain. A MRI scan of the lumbar spine dated 9/3/02 indicated left paracentral disc protrusion abutting and causing mild mass effect on the left ventral thecal sac, generalized disc bulge at L5-S1 with no spinal stenosis or foraminal narrowing, and disc desiccation at L4-L5 and L5-S1 with loss of disc height at L5-S1. Initial treatment for this patient's condition included chiropractic adjustments and palliative physical medicine modalities. On 11/12/02 the patient underwent back surgery that consisted of a left L4-L5 microforaminotomy and microdiscectomy. The patient began postoperative rehabilitation and passive therapy on 11/18/02 through 1/10/03 that consisted of passive therapy, neuromuscular reeducation, manual traction and myofascial release. The patient then moved on into active therapy and then a work hardening program.

Requested Services

Electrical stimulation, hot/cold packs, office visits, manual traction therapy, myofascial release, neuromuscular reeducation, joint mobilization, and medical report from 12/9/02 through 2/17/03.

Decision

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

Rationale/Basis for Decision

The ___ chiropractor reviewer noted that this case concerns a 55 year-old male who sustained a work related injury to his back on ____. The ___ chiropractor reviewer indicated that the patient had suffered a disc injury that has left him with permanent nerve damage and foot drop. The ___ chiropractor reviewer noted that the patient had been treated with conservative care followed by surgery, and then further passive, conservative care. The ___ chiropractor reviewer also noted that after 12/26/02 the treatment became more active and involved due to the patient's major neurological deficit. The ___ chiropractor reviewer explained that the treating doctor was aware of this patient's condition, attempted to treat this patient conservatively and documented his condition well. Therefore, the ___ chiropractor consultant concluded that the electrical stimulation, hot/cold packs, office visits, manual traction therapy, myofascial release, neuromuscular reeducation, joint mobilization, and medical report from 12/9/02 through 2/17/03 were medically necessary to treat this patient's condition.

Sincerely,