

MDR Tracking Number: M5-04-1070-01

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 12, 2003.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the hot/cold pack therapy, therapeutic exercises, electrical stimulation-unattended, ultrasound, office visit evaluation (15 min) and massage therapy were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the treatment listed above were not found to be medically necessary, reimbursement for dates of service from 04-17-03 to 04-24-03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 1<sup>st</sup> day of March 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division  
PR/pr

February 26, 2004

#### **NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-04-1070-01**

\_\_\_ 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 25 year-old male who sustained a work related injury on \_\_\_\_. The patient reported that while at work he was standing on a water pump when he fell striking his head, and injuring his head, neck and back. X-Rays of the cervical, thoracic, and lumbar spine dated 7/5/02 indicated postural alterations and moderate restriction of upper cervical flexion, postural alterations of the thoracic spine, and an essentially unremarkable study of the lumbar spine. A MRI of the lumbar spine dated 7/5/02 indicated a 1mm focal central disc protrusion at the L5-S1 level not impinging on neural structures, thinning of the disc at L5-S1, mild desiccation of the disc at L1-L2, and mild facet joint space narrowing of the mid to upper lumbar spine. On 7/17/02 the patient underwent a NCV test that showed bilateral L5 irritation. A MRI of the thoracic spine dated 7/18/02 showed desiccation of the discs of the mid to upper thoracic spine associated with thinning of the disc at T7-T8, and a 1mm central and left ventral lateral subarachnoid space. The diagnoses for this patient have included displacement thoracic lumbar disc, thoracic sprain, unspecified myalgia and myositis not otherwise specified, and spasm of muscle. Treatment for this patient's condition has included therapeutic exercises, hot/cold packs, ultrasound, massage, and electrical stimulation.

### Requested Services

Hot/cold pack therapy, therapeutic exercises, electrical stimulation-unattended, ultrasound, office visit evaluation (15 min), and massage therapy from 12/30/02 to 4/30/03.

### Decision

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

### Rationale/Basis for Decision

The \_\_\_ chiropractor reviewer noted that this case concerns a 25 year-old male who sustained a work related injury to his thoracic and lumbar spine on \_\_\_\_. The \_\_\_ chiropractor reviewer indicated that the patient received active and passive therapy for his thoracic and lumbar spine, which included an 8 week work hardening program. The \_\_\_ chiropractor reviewer noted that the dates of service at issue in this appeal, 12/30/02 to 4/30/03 were over \_\_\_ weeks after his date of injury. The \_\_\_ chiropractor reviewer explained that according to the North American Spine Society Guidelines for unremitting low back pain, the patient was in the tertiary or chronic phase of care by the dates of these visits. The \_\_\_ chiropractor reviewer also explained that patients in this phase of care have symptoms or recurrences beyond the anticipated healing period, which is usually 3 to 6 months following the onset of symptoms. The \_\_\_ chiropractor consultant indicated that interventions during this phase of care usually include epidural steroid injections, trigger point injections, chronic pain programs and functional restoration programs. The \_\_\_ chiropractor consultant also indicated that this patient already had received 23 weeks of active therapy and had completed a work hardening program.

The \_\_\_ chiropractor consultant explained that it was therefore unlikely that further active therapy would help the patient's symptoms. The \_\_\_ chiropractor consultant further explained that the fact that the member's pain was rated as a 3 out of 10 after his completion of the work hardening program and that he rated his pain as a 6 out of 10 on 12/30/02 is evidence that further active therapy would not improve his symptoms.

Therefore, the \_\_\_ chiropractor consultant concluded that the hot/cold pack therapy, therapeutic exercises, electrical stimulation-unattended, ultrasound, office visit evaluation (15 min), and massage therapy from 12/30/02 through 4/30/03 were not medically necessary to treat this patient's condition.

Sincerely,