

MDR Tracking Number: M5-04-1375-01

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 01-13-04.

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, and the Requestor's withdrawal of dates of service pertaining to fee issues, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visit was found to be medically necessary. The therapeutic exercises and aquatic therapy 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 date of service 3/26/03 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 Decision and Order is hereby issued this 6th day of April 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division
RLC/rlc

**NOTICE OF INDEPENDENT REVIEW DETERMINATION
REVISED 3/31/04**

March 12, 2004
IRO Certificate# 5259

An independent review of the above-referenced case has been completed by a medical physician board certified in physical medicine and rehabilitation. 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

This is a 43 year old lady who suffered a lifting injury to the lumbar region. This was treated conservatively and ultimately underwent a single level lumbar fusion in September 2002. Post-operatively she did reasonably well. By March 2003 she was started on spine stabilization exercises. There were post-op pain issues requiring an injection. By June 2003 maximum medical improvement was noted with a 5% whole person impairment rating. During March and April 2003 the physical therapy protocol included aquatic therapeutic treatments.

REQUESTED SERVICE (S)

Office visits, therapeutic exercises, aquatic therapy from March through April 2003.

DECISION

Approve office visit (99203). Deny therapeutic exercises (97113) and aquatic therapy.

RATIONALE/BASIS FOR DECISION

The 99203-25 office visit would be clinically indicated. However, the 97110, therapeutic exercise session would not be clinically indicated. This individual had a number of physical therapy sessions and the training of how to complete a home-based, self-directed exercise program emphasizing overall fitness and conditioning would be part of that therapy. This is redundant care at best, thus not reasonable and necessary care.

There was a clear need for routine post-fusion physical therapy. However, there is no discussion whatsoever in the progress notes or the physical therapy notes as to why specifically aquatic therapy would be reasonable and necessary care. The progress notes reviewed gave no indication of the fusion mass failing or the development of any negative sequale to the surgery completed. The appropriate therapy could have been completed with a more traditional setting, i.e. in the physical therapy clinic. The failure to produce any clinical reason that would require aquatic therapy causes one to deny these services as not being reasonable and necessary care for the injury sustained.