

MDR Tracking Number: M5-04-1472-01

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 January 26, 2004.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 01/26/04, therefore the following date(s) of service are not timely: 01-08-3 through 01-22-03

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 therapeutic exercises, neuromuscular re-education, myofascial release, joint mobilization and office visits 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 12th day of April 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 01-29-03 through 02-05-03 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 12th day of April 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/pr

April 7, 2004

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

REVISED REPORT
Corrected dates of service in dispute

Re: MDR #: M5-04-1472-01
IRO Certificate No.: IRO 5055

___ 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.

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.

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 who is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

Correspondence
H&P and office notes
Physical therapy notes and FCE
Radiology report

Clinical History:

The patient was injured on the job on ___, at which time he heard his back pop and immediately felt pain. MRI reports dated 11/21/02 demonstrate a broad-based disc herniation at L4-L5. In addition on 1/29/03, he received an orthopaedic evaluation and at this time epidural blocks were recommended along with continued active rehab. On 2/28/03, he underwent a RMI, in which it was determined that he had not reached MMI.

Disputed Services:

Therapeutic exercises, neuromuscular re-education, myofascial release, joint mobilization, and office visits during the period of 01/29/03 through 02/05/03.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the treatment and services in dispute as stated above were medically necessary in this case.

Rationale:

There is substantial medical evidence that the patient did indeed experience a severe back injury and was undergoing appropriate medical care at the time in question. He should not be forced to follow simple sprain/strain guidelines.

TWCC fee guidelines should be utilized as they were written at the time the services were provided and not according to Medicare fee guidelines. Treatment guidelines and care standards used in forming this opinion are the Bigos, et. al, author, 1994, AHVPR Guideline 14 of the U.S. Department of Health and Human Services. The title is *Acute Low Back Pain Problems in Adult Assessment and Treatment*.