

MDR Tracking Number: M5-04-1515-01

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 1-27-04.

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** 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 office visits, electrical muscle stimulation, hot/cold packs, therapeutic exercises, therapeutic activities, neuromuscular re-education, and myofascial release were 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 dates of service 1/29/03 through 5/12/03 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 5<sup>th</sup> day of April 2004.

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

March 30, 2004

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

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\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

The patient in question was lifting a box weighing about 75 pounds when he had a sudden onset of low back pain as he raised it up. The pain continued to get worse as he worked and he began having parasthesias in his right leg shortly afterward. He sought care from \_\_\_ and was treated with manipulation, physiotherapy and active exercises for the injury. During his program he sustained multiple periods of exacerbation and was treated with passive therapy during those times. After approximately 5 months of therapy, the patient was found to be at MMI with impairment totaling 5% whole person. A peer review was performed by \_\_\_ in which the injury was described as "remarkably uncomplicated" and the single most common injury in America. He recommended no treatment beyond December 15, 2002, which was \_\_\_ months post-injury. MRI of the lumbar spine indicated an osteochondrosis which was associated with a 2-3 mm protrusion at the level of L5/S1 and a 2 mm bulge at the level of L4/5.

#### DISPUTED SERVICES

The carrier has denied the medical necessity of office visits, electrical muscle stimulation, hot/cold packs, therapeutic activities, therapeutic exercises, neuromuscular re-education and myofascial release from January 29, 2003 through May 12, 2003.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

The patient clearly had a serious low back injury that required rehabilitation in excess of the suggestions by the peer reviewer. This case was very well documented by the requestor with rational explanations as to why treatment was being rendered. The documentation presented also shows that the patient has a low back that can be expected to have the problems encountered due to the long term degeneration of the spine which is present.

The treatment rendered clearly addressed the problems facing this patient and he returned to a productive workplace with minimal impairment. As a result of the presented documentation, the reviewer finds the care to be both reasonable and necessary for the rehabilitation of this patient.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,