

MDR Tracking Number: M5-04-1602-01

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 2-3-04.

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 stimulation, massage therapy, ultrasound therapy, and therapeutic exercises from 11/12/03 through 11/17/03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

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 11/12/03 through 11/17/03 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 Decision and Order is hereby issued this 26th day of April 2004.

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

April 15, 2004

Re: MDR #: M5-04-1602-01
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.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. 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
Operative and radiology reports

Clinical History:

The patient is a 46-year-old male laborer with previous lumbar surgeries in 1997 and 1998, who developed immediate, sharp pain in his mid-to-lower back on ___ after a work-related injury. Following an initial trial of conservative chiropractic care, the patient eventually underwent T11-12 laminectomy and facetectomy on 08/06/03.

Disputed Services:

Stimulation, massage, ultrasound and exercises during the period of 11/12/03 through 11/17/03.

Decision:

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

Rationale:

This patient underwent lower back spinal surgery on 08/06/03, and for whatever reason, his spinal surgeon did not clear him to begin post-operative rehabilitation therapy until 10/07/03, a mere 5 weeks before these services were performed. Considering the limited amount of time that had elapsed since the surgical procedure, as well as the extent of the injury, these services fell well within the standard of care relative to a post-operative condition, and in no way represented services that would be considered excessive or medically unnecessary.

Moreover, this patient was seen by a TWCC designated doctor on 01/29/04, and it was his opinion – more than two months after these services were provided – that he was not “yet at maximum medical improvement and would not anticipate him achieving that in probably less than about another six months.” He even went on to opine in his report that he “strongly suspect[ed] that additional surgery would be required” in this patient.

Sincerely,