

MDR Tracking Number: M5-04-1663-01

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 February 9, 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 02-09-04, therefore the following date(s) of service are not timely: 02-07-03

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of 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 office visits, therapeutic exercises, ultrasound, joint mobilization, myofascial release, electrical stimulation, hot/cold pack therapy and muscle testing from 02-10-03 through 06-16-03 **were** found to be medically necessary. The office visits, therapeutic exercises, ultrasound, joint mobilization, myofascial release, electrical stimulation, hot/cold pack therapy and muscle testing from 06-18-03 through 07-14-03 **were not** 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 18th day of June 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 02/10/03 through 06/16/03 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 18th day of June 2004.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division
DRM/pr

June 15, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION
Amended Letter**

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___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ___ 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 who is familiar with the with the condition and treatment options at issue in this appeal. 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 29 year-old male who sustained a work related injury on ___. The patient reported that while at work he injured his back while lifting heavy boxes. The diagnoses for this patient have included cervical herniated nucleus pulposus, radicular neuralgia, and myospasms. The patient began conservative therapeutic modalities that included ultrasound, EMS, hot/cold packs, and myofascial release on 10/22/02. X-rays of the patient's cervical spine and left shoulder were performed on 10/24/02. A MRI of the cervical spine performed on 10/30/02 indicated posterior central focal subligamentous herniation at C4-5 measuring 4mm, posterior discal bulging 2mm at C5-6, and reversal of cervical lordosis. The patient underwent an upper extremity NCV/EMG that was reported to be normal. A cervical myelogram performed on 2/11/03 indicated straightening involving the cervical vertebral column, ventral epidural defect C4-5, small epidural defect C5-6, ventral epidural defect C6-7, focal right paracentral protrusion at C4-5, diffuse spondylotic bulging of the annulus with accompanying bony ridging of 4-5mm at

C5-6 with contact deformity of the right greater than left C6 ventral outlet with finding lateralizing slightly to the right and significant central stenosis of moderated degree seen without cord deformity. The patient continued with treatment consisting of therapeutic exercises, joint mobilization, myofascial release, interferential, ultrasound, and moist heat.

Requested Services

Office visits, therapeutic excercises, ultrasound, joint mobilization, myofascial release, electrical stimulation, hot/cold pack therapy, and muscle testing from 2/10/03 through 7/14/03.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Initial Medical Report 10/22/02
2. X-Ray report 10/24/02
3. MRI report 10/30/02
4. EMG report 12/10/02

Documents Submitted by Respondent:

1. No Documents Submitted

Decision

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

Rationale/Basis for Decision

The ___ chiropractor reviewer noted that this case concerns a 29 year-old male who sustained a work related injury to his back on ____. The ___ chiropractor reviewer indicated that this patient sustained a cervical disc herniation and a shoulder impingement. The ___ chiropractor reviewer noted that the shoulder was repaired surgically and followed with the appropriate therapy. The ___ chiropractor reviewer also noted that on 6/13/03 the report from the treating chiropractor revealed an essentially normal cervical spine exam without mention of the patient's pain. The ___ chiropractor reviewer explained that the treatment rendered up to 6/13/03 was appropriate and medically necessary. The ___ chiropractor reviewer also explained that after 6/13/03 the patient could have been released to a home based program. Therefore, the ___ chiropractor consultant concluded that the office visits, therapeutic excercises, ultrasound, joint mobilization, myofascial release, electrical stimulation, hot/cold pack therapy, and muscle testing from 2/10/03 through 6/16/03 were medically necessary to treat this patient's condition.

However, the ___ chiropractor consultant further concluded that the office visits, therapeutic exercises, ultrasound, joint mobilization, myofascial release, electrical stimulation, hot/cold pack therapy, and muscle testing from 6/18/03 through 7/14/03 were not medically necessary to treat this patient's condition.

Sincerely,