

MDR Tracking Number: M5-04-1725-01

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 10, 2004.

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 stimulation, massage, ultrasound and exercises 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 11-19-03 through 11-24-03 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 26<sup>th</sup> day of May 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PR/pr

**IRO Certificate #4599**

**NOTICE OF INDEPENDENT REVIEW DECISION**

May 25, 2004

**Re: IRO Case # M5-04-1725**

Texas Worker's Compensation Commission:

\_\_\_ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to \_\_\_ for an independent review. \_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, \_\_\_ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is board Certified in Neurological Surgery, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to \_\_\_ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the \_\_\_ reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of Disputed Services 11/19/03 – 11/24/03
2. Explanation of benefits
3. Request for Reconsideration 1/19/04
4. RME report 10/29/03
5. MRI lumbar spine report 3/11/03, 1/7/04
6. Operative Report 8/6/03
7. Surgeon consultation report 3/27/03
8. Clinic notes 2/11/03 forward
9. Surgeon notes

10. TWCC 69, Report of Medical Evaluation 1/29/04
11. Another surgeon's notes and report 2004
12. Physical therapy treatment records

#### History

The patient is a 46-year-old male who on \_\_\_ was lifting some scaffolding and developed back pain. The back pain persisted, but he continued to work. The back pain became so severe that on 2/11/03 he sought medical help. The patient had both right and left lower extremity pain at times, in addition to his back pain. He had a history of lumbar disk surgery at the L4-5 level several years before. A 3/11/03 MRI showed a right sided T11-12 disk herniation with spinal cord compromise. After the MRI, consultations, additional opinions, and insurance denials delayed an indicated procedure, which was finally performed on 8/6/03, consisting of thoracic laminectomy with disk rupture removal at the T11-12 space. The patient did poorly post operatively, with continued discomfort limits in range of motion, and general problems that could benefit from a physical therapy program.

#### Requested Service(s)

Stimulation, massage, ultrasound, exercises 11/19/03 –11/24/03

#### Decision

I disagree with the carrier's decision to deny the requested services.

#### Rationale

The patient's surgeon did recommend continued stretching exercises, and while there was no mention of stimulation, massage or ultrasound, these services enhanced the potential help of an exercise program. A subsequent MRI on 1/7/04 showed potential problems in the surgical area, but because the patient's neurologic examination was normal, the surgeon could have appropriately determined that a physical therapy program was indicated before performing reevaluation by way of MRI. Therefore, the MRI was not thought necessary before an attempt was made to relieve the patient's problems with the physical therapy measures that were introduced.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.