

MDR Tracking Number: M5-04-1729-01

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.

Based on correspondence received on May 28, 2004, from the requestor, \_\_\_ requestor has withdrawn from all unresolved fee issues in dispute.

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 manipulation, therapeutic exercises, myofascial release, manual therapy, neuromuscular re-education, mechanical traction, electrical stimulation, and CMT-Spinal 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 3<sup>rd</sup> 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 04-14-03 through 10-30-03 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 3<sup>rd</sup> day of June 2004.

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

May 4, 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

\_\_\_ sustained a work-related injury to his lumbar spine as he was carrying an 85-pound roll of roofing material on his left shoulder while climbing a ladder. As he stepped to get on the roof, he felt immediate lower back pain that progressed to a left radicular presentation. An MRI revealed a 4 mm disc herniation that abuts the ventral thecal sac at the L4/5 level, and a 2 mm disc herniation at L5/S1 that has no mass effect on the nerve root or thecal sac. Additionally, at both of these levels there is an annular tear or fissure noted and verified through high signal intensity on the MRI. An EMG was performed that indicated a right lumbosacral radiculopathy and a left L5/S1 radiculopathy. The patient underwent conservative care and was referred to \_\_\_ for an epidural steroid injection that was never performed. Office notes for the disputed dates of service at \_\_\_ denote progress in the patient's condition. A functional capacity evaluation showed evidence that \_\_\_ could not perform at the physical demand level of his occupation.

It was suggested that he undergo a work hardening program to strengthen him and ready him for return to work, but the reviewer finds no evidence that this was approved by the insurance carrier. The designated doctor assigned a ten percent whole person impairment before all treatment options had been explored and finalized.

#### DISPUTED SERVICES

Under dispute is the medical necessity of manipulation, therapeutic exercises, myofascial release, manual therapy, neuromuscular re-education, mechanical traction, electrical stimulation, and CMT-Spinal from 04/14/03 through 10/30/03.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

Upon review of the patient's record, the treating doctor made appropriate referrals for second opinions, testing and work hardening. \_\_\_ recovery was complicated, in that he suffered two discal tears in his lower spine. The treatment this patient received from 04/14/03 through 10/30/03 was appropriate and was intended to bring his case to a successful conclusion. The treatment was reasonable and necessary, as it was designed to increase function and decrease pain so that he could return to gainful employment. The TWCC Medicine Ground Rules state on page 31, 1(A) 2 that the treatment in question should be "specific to the injury and provide potential improvement of the patient's condition." \_\_\_ treatment was medically necessary, as it was intended to "cure or relieve" the symptoms resulting from the compensable injury as outlined in the Texas Workers' Act, section 401.001(31).

\_\_\_ 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,