

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-04-6628.M5

MDR Tracking Number: M5-04-1999-01

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 March 4, 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 massage, aquatic therapy, established patient focused office visit and sterile whirlpool 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 10/22/03 through 11/03/03 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 13th day of May 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

PR/pr

April 30, 2004

MDR Tracking Number: M5-04-1999-01
IRO Certificate # 5259

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

CLINICAL HISTORY

___, a 58-year-old male, sustained injuries to lower back while working for ____. He slipped and fell into a ditch while carrying some plywood. He subsequently underwent surgery on 9/11/00, has had a spinal cord stimulator implanted, followed by removal of lumbar hardware with fusion on 4/1/03. He presented to ___ on 10/21/03 complaining of an exacerbation to his lumbar spine due to cold weather. Presenting complaints were of low back pain with left hip radiating down the left leg to heel, constant moderate to severe in intensity. Pain scale was reported as 5/10. Examination of the lumbar spine reveals moderate tenderness to deep paravertebral musculature with midline tenderness throughout the lumbar spine. ___ recommended four to six sessions of physical therapy consisting of group therapy in the pool, 30 minutes massage and sterile whirlpool.

REQUESTED SERVICE (S)

Medical necessity of massage, aquatic therapy, established patient focused office visit and sterile Whirlpool between 10/22/03-11/03/03.

DECISION

There is establishment of medical necessity for all the therapeutic procedures performed. Requested services approved.

RATIONALE/BASIS FOR DECISION

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the

injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

The patient is postsurgical, with ongoing problems. He suffered a flare-up and the doctor prescribed exercises and some passive therapy. Apparently aquatic exercises were deemed favorable due to the patient's postsurgical presentation. Treatments appeared to be successful in reducing the patient's pain level and increasing his functional ability with respect to range of motion. As such the above mandates for medical necessity appear to have been satisfied.

In conclusion, the care appears to have been provided well within the parameters of current clinical standards.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical probability and are totally independent of the requesting client.