

MDR Tracking Number: M5-04-2050-01

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 9, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the medical necessity issues. 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 not the only issue** to be resolved. The therapeutic exercises, kinetic activities, myofascial release and office visit rendered on 3/25/03 through 6/25/03 were found to be medically necessary. The joint mobilization rendered from 3/25/03 through 4/8/03 was not found to be medically necessary. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On June 30, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

Communication with \_\_\_\_, on 10/4/04 revealed \_\_\_\_ desires to withdrawal CPT code 99213 rendered on 8/4/03 and 9/10/03. Therefore, no further action is required.

### **ORDER**

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 3/25/04 through 6/25/03 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 8<sup>th</sup> day of October 2004.

Margaret Q. Ojeda  
Medical Dispute Resolution Officer  
Medical Review Division

MQO/mqo

June 2, 2004  
Amended June 30, 2004

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

Patient:  
TWCC #:  
MDR Tracking #: M5-04-2050-01  
IRO #: 5251

\_\_\_ 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

\_\_\_ was a housekeeper and was cleaning a bathtub when she slipped and fell while leaving the tub and suffered pain to the low back and left hip. She was taken to the ER at University Medical Center in Lubbock and later was treated by Dr. P, who is the company's referral doctor. After a PT referral, the patient reported a worsening of the symptoms and a MRI was ordered by Dr. P. The MRI demonstrated an annular tear at L4/5 and a protrusion at L5/S1. She was released by her treating doctor on December 26, 2002 to return to work and she sought care from Dr. M for continuing pain in the lumbar spine. She was evaluated with a FCE by Dr. M, which gave a fairly drastic demonstration of this patient's condition at that point in time, which was January 16, 2003. She was clearly unable to do the job required based on that evaluation. She was referred to Dr. H, and was treated with epidural steroid injections. EMG/NCV was normal, as provided by Dr. C. She underwent a lumbar discogram on May 15, 2003, which gave significant indications of L4/5 and L5/S1 abnormalities. IDET was recommended by the surgeon on the case. The patient was referred to Dr. AM on June 4, 2003 by the TWCC for a designated doctor evaluation. He found her to not be at MMI and recommended the IDET and post-surgical care. His finding was that the patient should be at MMI as of September 4, 2003. Peer review by Dr. S, indicated that the patient was under passive care and should have not gone for further passive care without transitioning into active care.

## DISPUTED SERVICES

Under dispute is the medical necessity of therapeutic procedures, kinetic activities, joint mobilization, myofascial release and office visits as medically unnecessary from March 25, 2003 through June 25, 2003.

## DECISION

The reviewer disagrees with the prior adverse determination for all care except joint mobilization.

## BASIS FOR THE DECISION

Clearly, this patient was seriously injured. The treating doctor, as described by Dr. S, did use some passive treatment. However, the records indicate that the treating doctor also utilized active care responsibly, as described by the office notes of Dr. M. The patient's condition was not merely a sprain/strain, but rather an active discopathy. The treatment rendered generally addressed the patient's needs in a cooperative method with the MD's performing advanced therapy on this patient. Joint mobilization, however, is a form of manipulation and absent of any documentation that would explain why this procedure was used in addition to chiropractic manipulation which was included in the office visit, the reviewer believes this to be medically unnecessary.

\_\_\_ 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,