

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

**SOAH DOCKET NO. 453-04-7294.M5**

MDR Tracking Number: M5-04-2217-01

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 19, 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 physical performance testing was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

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 date of service 11-13-03 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 10<sup>th</sup> day of June 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PR/pr

May 19, 2004

MDR #: M5-04-2217-01  
IRO Certificate No.: 5055

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

## REVIEWER'S REPORT

### **Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's

Documentation from Requestor: correspondence (04/26/04), office notes, FCE from 11/04/03 through 11/13/03.

Documentation from Respondent: correspondence (04/28/04), office notes, physical therapy notes, designated doctor reports from 09/29/03 through 11/11/03

**Clinical History:**

The records indicate the patient injured her low back and left knee on the job on \_\_\_\_\_. She initially sought care and was prescribed medication and had physical therapy performed, as well as appropriate diagnostic testing in the form of MRI of the low back and left knee. MRI of the lumbar spine revealed a right lateral focal L5-S1 protrusion with mass effect on the right L5 nerve root and lateral recess. The left knee MRI revealed a small joint effusion with minimal patellar chondral irregularity.

Over the course of treatment, the patient continued to experience problems and requested a change of treating doctors. This was approved by the TWCC, and a new treating doctor performed an initial evaluation of the injured patient on 11/4/03.

**Disputed Services:**

Physical performance testing on 11/13/03

**Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the physical performance testing done on 11/13/03 was medically necessary in this case.

**Rationale:**

There was sufficient subjective findings as well as sufficient objective findings on the initial evaluation of 11/4/03 to warrant additional diagnostic testing as well as appropriate rehabilitation of this patient's injuries. Treatment guidelines allow for an initial functional capacity evaluation or physical performance test in injuries of this nature. Although the patient had received previous treatments, there was sufficient documentation to clinically justify the initial evaluation by her new treating doctor. As mentioned above, the results of this evaluation provided sufficient documentation to warrant the initial physical performance test on 11/13/03. The results of this test confirmed the patient's limitations and the need for an aggressive strengthening/rehabilitation program in order for her to recover to her appropriate job classification that her employment required.

Sincerely,