

MDR Tracking Number: M5-04-2336-01

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 29, 2004.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 03-29-04, therefore the following date(s) of service are not timely: 03-26-03 and 03-28-03.

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 \$650.00** 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 office/outpatient visit, aquatic therapy/exercises, neuromuscular re-education and massage therapy **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 4th day of August 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 03-31-03 through 04-25-03 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 4th day of August 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/pr

NOTICE OF INDEPENDENT REVIEW DECISION

Revised Notice 06/25/04
Note: Attachment Added

June 21, 2004

Amended letter 07/27/04

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IRO Certificate #: IRO4326

The ___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a ___ physician reviewer who is board certified in Family Practice, is licensed by the ___ in ___ and provides health care to injured workers. This is the same specialty as the treating physician. The ___ physician reviewer has signed a certification statement stating 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 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 this case.

Clinical History

This patient sustained a work-related injury on ___ when he was walking down a dirt ramp with materials and tripped and fell to the ground. The patient landed on his right shoulder and neck and experienced immediate pain in the right shoulder. The patient was diagnosed with a right shoulder rotator cuff tear. Following surgical repair of the right shoulder, the patient's primary care physician referred the patient to ___.

Requested Service(s)

Office/outpatient visit, aquatic therapy/exercises, neuromuscular re-education, and massage therapy billed from 03/31/03 through 04/25/03.

Decision

It is determined that the office/outpatient visit, aquatic therapy/exercises, neuromuscular re-education, and massage therapy billed from 03/31/03 through 04/25/03 were medically necessary to treat this patient's condition.

Rationale/Basis for Decision

This patient required the therapeutic modalities in question secondary to surgery to his right shoulder. The patient showed improvement in his range of motion following treatment. Therefore, the office/outpatient visit, aquatic therapy/exercises, neuromuscular re-education, and massage therapy billed from 03/31/03 through 04/25/03 were medically necessary.

Sincerely,