

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

**SOAH DOCKET NO. 453-04-8368.M5**

MDR Tracking Number: M5-04-2395-01

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 April 1, 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 aquatic therapy, therapeutic exercises and massage therapy **were** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for all services listed above.

This Findings and Decision is hereby issued this 14<sup>th</sup> day of July 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 12-10-03 through 02-02-04 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 14<sup>th</sup> day of July 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/pr

June 10, 2004

## NOTICE OF INDEPENDENT REVIEW DECISION

MDR Tracking #: M5-04-2395-01

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the \_\_\_ external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The \_\_\_ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

### Clinical History

This case concerns a 30 year-old male who sustained a work-related injury on \_\_\_. The patient reported that while at work, he was lifting bundles of shingles weighing approximately 90 pounds when he injured his back. Initial treatment for this patient's condition has included electrical stimulation, ultrasound, heat packs and medications. On 7/10/03 the patient underwent a MRI of the lumbar spine that showed degenerative disc disease at the L5-S1 level with no herniation demonstrated. The diagnoses for this patient have included displacement of lumbar disc, lumbar sprain, and facet syndrome. Further treatment for this patient has included chiropractic care, aquatic therapy, therapeutic exercises and massage therapy.

### Requested Services

Aquatic therapy, therapeutic exercises, and massage therapy from 12/10/03 through 2/2/04

### Documents and/or information used by the reviewer to reach a decision:

#### *Documents Submitted by Requestor:*

1. Re-examination & Treatment Results 1/6/04
2. Initial Exam 12/9/03
3. MRI Lumbar Spine Report 7/10/03
4. Diagnostic Interview 2/17/04

#### *Documents Submitted by Respondent:*

1. No documents submitted

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

Rationale/Basis for Decision

The \_\_\_ chiropractor reviewer noted that this case concerns a 30 year-old male who sustained a work related injury to his back on \_\_\_\_. The \_\_\_ chiropractor reviewer also noted that the diagnoses for this patient have included displacement of lumbar disc, lumbar sprain, and facet syndrome. The \_\_\_ chiropractor reviewer indicated that on 12/9/03 the patient transferred care to the current treating chiropractor. The \_\_\_ chiropractor reviewer noted that the patient was evaluated and began an active treatment program. The \_\_\_ chiropractor reviewer explained that the need for an active rehabilitative program at that time was very important. The \_\_\_ chiropractor reviewer noted that the patient made objective and subjective improvement by 50% over the next two months after 5 months of no change. The \_\_\_ chiropractor reviewer indicated that the therapy this patient received was well documented and provided relief of his condition. Therefore, the \_\_\_ chiropractor consultant concluded that the aquatic therapy, therapeutic exercises, and massage therapy from 12/10/03 through 2/2/04 were medically necessary to treat this patient's condition.

Sincerely,