MDR Tracking Number: M5-04-2507-01

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 04-12-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of neuromuscular re-education, office visits, joint mobilization, myofascial release, therapeutic exercises and electrical stimulation. 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 neuromuscular re-education, office visits, joint mobilization, myofascial release, therapeutic exercises and electrical stimulation 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 04-08-03 through 06-05-03 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 Findings and Decision is hereby issued this 24th day of June 2004.

Donna Auby
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 04-08-03 through 06-05-03 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 24th day of June 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/da

June 18, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

MDR Tracking #: M5-04-2507-01

___ 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 24 year-old male who sustained a work related injury on ___. The patient reported that while at work he began to experience pain in his right shoulder when he was throwing trash into a dumpster. X-rays taken 2/20/03 were reported to be within normal limits. A MRI of the lumbar spine performed on 3/19/03 revealed broad posterocentral 2-3mm discal protrusion/herniation pressing on the anterior thecal sac with moderated bilateral facet hypertophy narrowing the lateral recess on each side at the L4-5 level, and broad posterior 2mm annular disc bulge that presses against the anterior thecal sac including the emerging S1 nerve root bilaterally. The patient also underwent a MRI of the right shoulder on 5/9/03 that revealed tendinosis of the central aspect of the distal rotator cuff. A repeat MRI of the lumbar spine performed on 10/3/03 showed multilevel discal pathology involving each of the L2-3, L3-4, L4-5, and L5-S1 level bilaterally. On 4/18/03 the patient underwent a somatosensory evoked potential study of the lower extremities that indicated bilateral lumbar lesion as well as a lesion radiating up from the left tibial nerve to the right hemisensory cortex. Treatment for this patient's condition has included conservative care and lumbar epidural blocks.

Requested Services
Neuromuscular reeducation, office visit, joint mobilization, myofascial release, therapeutic exercises and electrical stimulation from 4/8/03 through 6/5/03

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

Documents Submitted by Requestor:

1. Workers Compensation Initial Evaluation Report 2/20/03
2. Daily PT notes 4/8/03 – 6/5/03
3. MRI report 3/19/03
4. MRI report 5/9/03
5. Somatosensory evoked potential study-lower extremities 4/18/03

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 24 year-old male who sustained a work related injury to his right shoulder on ___. The ___ chiropractor reviewer also noted that treatment for this patient's condition has included conservative care and lumbar epidural blocks. The ___ chiropractor reviewer indicated that the patient had two areas of involvement with positive objective findings via MRI that correlate with his subjective findings. The ___ chiropractor reviewer noted that the patient had been treated conservatively from 2/20/03 through 4/5/03 with mild improvement recorded. The ___ chiropractor reviewer also noted that the patient continued active care from 4/5/03 through 6/5/03 and begun epidural steroid injections on 5/28/03 with mild improvement noted. The ___ chiropractor reviewer explained that the epidural steroid injections appeared to decrease his leg pain making it easier for the patient to participate in the conservative care. The ___ chiropractor reviewer noted that the patient was followed for 3 additional epidural steroid injections from 6/18/03 through 9/3/03. The ___ chiropractor reviewer also noted that the patient's leg pain had decreased but that his lumbar pain remained. The ___ chiropractor reviewer explained that the treatment this patient received from 4/8/03 through 6/5/03 allowed for the decrease of mechanical back pain while reduction of radicular pain began via epidural steroid injections. The ___ chiropractor reviewer also explained that when treating multiple areas of involvement, the time frame for acceptable conservative care is about 10-12 weeks. The ___ chiropractor reviewer further explained that the treatment period for this patient was appropriate and medically necessary. Therefore, the ___ chiropractor consultant concluded that the neuromuscular reeducation, office visit, joint mobilization, myofascial release, therapeutic exercises and electrical stimulation from 4/8/03 through 6/5/03 were medically necessary to treat this patient's condition.

Sincerely,