

MDR Tracking Number: M5-04-2559-01

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 4-1-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity for therapeutic exercises, manual electrical stimulation, and ultrasound. 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 therapeutic exercises, manual electrical stimulation, and ultrasound were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above 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 03-22-02 through 09-23-02 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 Decision and Order is hereby issued this 30<sup>th</sup> day of June 2004.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

June 14, 2004

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IRO Certificate Number: 5259

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or

rendered services is determined by the application of medical screening criteria published by \_\_\_\_, or by the application of medical screening criteria and protocols formally established by practicing physicians.

All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_\_.

#### CLINICAL HISTORY

\_\_\_\_, a 21 year old male, sustained injuries to his lower back following attempting to lift 100 lb. package while working for \_\_\_\_\_. The patient presented to \_\_\_\_ on 7/18/03 complaining of low back pain with radiation into the left leg. He was placed on a course of chiropractic care with apparently fairly good results. MRI in September of 2003 apparently showed disc bulging at L4/L5 and L5/S1 with some neural frontal stenosis on the left. Patient progressed into active rehabilitation and returned to work at full duty. An impairment rating exam/assessment was performed on 12/1/03 with the patient being assigned a 5% whole person impairment according to DRE category II lumbar spine.

Peer review performed 10/24/03 found that chiropractic intervention was acceptable and supported based on the documentation and progress, however no further treatment was recommended.

#### REQUESTED SERVICE (S)

Chiropractic manipulative treatment, manual therapy techniques, work related or medical disability examination, special reports 11/19/03-11/26/03.

#### DECISION

Approved. These services are appropriate for the time frame in dispute.

#### RATIONALE/BASIS FOR DECISION

*The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.*

Accepted clinical guidelines are generally in agreement that initial trial period of manual therapy (passive care) consists of up to two weeks at a visit frequency of 3-5 visits per

week (as appropriate), with appropriate tapering of care and transition to a more active mode of care, eliminating passive modalities, followed by a re-evaluation. If, at that time, there is not a significant documented improvement, a second course of two weeks of care, utilizing different types of manual procedures is appropriate. In the absence of documented improvement, manual procedures are no longer indicated after four weeks.

If a patient does not have signs of objective improvement in any two successive two-week periods, referral is indicated.

Contemporary treatment guidelines generally agree with the Mercy document that all episodes of symptoms that remain unchanged for 2-3 weeks should be evaluated for risk factors of pending chronicity, with treatment plans altered to de-emphasize passive care and refocus on active care approaches.

In the period of time under dispute, care was rendered according to treatment guideline standards outlined above. Requirements for medical necessity were met. The patient progressed with care and was discharged once a stable platform had been established.

The disability exam is an administrative procedure required by the TWCC. The patient was found to have impairment.

The submission of various forms are also administrative requirements, and outside the scope of determining "medical necessity".

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such and may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.

**References:**

Hansen DT: Topics in Clinical Chiropractic,  
Haldeman S., Chapman-Smith D, Peterson DM., Eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters,  
Souza T: Differential Diagnosis for a Chiropractor: Protocols and Algorithms,  
Official Disability Guidelines