

MDR Tracking Number: M5-04-2849-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 05-03-04. Date of service 04-30-03 was not timely filed per Rule 133.308(e)(1).

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 electrical stimulation, chiropractic manipulative treatment, ultrasound therapy, myofascial release, office visits, therapeutic activities and FCE rendered from 06-02-03 through 12-23-03 **were** found to be medically necessary. The gait training, neuromuscular re-education and therapeutic exercises rendered from 06-02-03 through 12-23-03 **were not** 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 17th day of August 2004.

Debra L. Hewitt
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 06-02-03 through 12-23-03 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 17th day of August 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh
Enclosure: IRO decision

August 9, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION
Amended Letter B**

RE: MDR Tracking #: M5-04-2849-01
TWCC #:
Injured Employee:
Requestor:
Respondent:
----- Case #:

----- 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 44 year-old male who sustained a work related injury on ----- . The patient reported that while at work he was struck on the neck with a falling ladder. The patient sought treatment on 1/15/03 and then changed treating providers to the current chiropractor. The diagnoses

for this patient have included cervical IVD disorder with myelopathy, cervical subluxation with associated cervical sprain/strain, complicated by cervicobrachial syndrome, thoracic IVD disorder with myelopathy, thoracic vertebral subluxation and thoracic sprain/strain. Treatment for this patient's condition has included active and passive therapeutic modalities and procedures, EMS, moist heat, ultrasound, myofascial release, and high voltage stimulation.

Requested Services

Office visit, electrical stimulation unattended, ultrasound therapy, therapeutic exercises, myofascial release, FCE, neuromuscular reeducation, therapeutic activities, gait training, and chiropractic manipulative therapy from 6/2/03 through 12/23/03.

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

Documents Submitted by Requestor:

1. Position Statement 6/17/04
2. Office notes 4/30/03 – 12/23/03
3. FCE 6/10/03, 11/6/03

Documents Submitted by Respondent:

1. Peer Review 1/18/04.

Decision

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

Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a 44 year-old male who sustained a work related injury to his neck on ----- . The ----- chiropractor reviewer also noted that the diagnoses for this patient have included cervical IVD disorder with myelopathy, cervical subluxation with associated cervical sprain/strain, complicated by cervicobrachial syndrome, thoracic IVD disorder with myelopathy, thoracic vertebral subluxation and thoracic sprain/strain. The ----- chiropractor reviewer indicated that the patient underwent approximately 27 visits from 4/10/03 to 6/2/03. The ----- chiropractor reviewer explained that this patient sustained a herniated nucleus pulposus and was not a surgical candidate at that time. The ----- chiropractor reviewer also explained that due to this patient's extensive injury, the patient required more than the normal 6-8 weeks of post injury conservative care. The ----- chiropractor reviewer indicated that the care this patient received was progressively decreasing his pain and symptoms. The ----- chiropractor reviewer explained that the patient experienced an exacerbation during the period in question and required further treatment. The ----- chiropractor reviewer explained that the patient's treatment consisting of electrical stimulation, chiropractic manual treatment, ultrasound therapy, myofascial release were appropriate and medically necessary. However, the ----- chiropractor reviewer also explained that the gait training, neuromuscular reeducation and therapeutic activities were not

medically necessary to treat this patient's condition. Therefore, the ----- chiropractor consultant concluded that the office visits, electrical stimulation, ultrasound therapy, myofascial release, chiropractic manipulative therapy, and FCE from 6/2/03 through 12/23/03 were medically necessary to treat this patient's condition. The ----- chiropractor consultant further concluded that the gait training, neuromuscular reeducation, and therapeutic exercises from 6/2/03 through 12/23/03 were not medically necessary to treat this patient's condition.

Sincerely,

State Appeals Department