

MDR Tracking Number: M5-04-4200-01

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 August 11, 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 not the only issue** to be resolved. The office visits, aquatic therapy, neuromuscular re-education, gait training was found to be medically necessary. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

Communication with \_\_\_\_\_ on 10/5/04 revealed the requestor desires to withdrawal CPT code 97211 from Medical Dispute Resolution, therefore at Nancy's request the fee issue is withdrawn without further action required.

**ORDER**

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 8/1/03 through 9/22/03 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 8<sup>th</sup> day of October 2004.

Margaret Q. Ojeda  
Medical Dispute Resolution Officer  
Medical Review Division

MQO/mqo

**MEDICAL REVIEW OF TEXAS**  
[IRO #5259]  
**3402 Vanshire Drive                      Austin, Texas 78738**  
**Phone: 512-402-1400                      FAX: 512-402-1012**

**NOTICE OF INDEPENDENT REVIEW DETERMINATION**

TWCC Case Number:	
MDR Tracking Number:	M5-04-4200-01
Name of Patient:	
Name of URA/Payer:	
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	

September 30, 2004

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 Texas Medical Foundation, 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

Medical Review of Texas (MRT) 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 MRT.

Sincerely,

#### CLINICAL HISTORY

Available documentation received and included for review consists of PM&R consult with EMG 10/22/02 (Dr M.), MRI report 10/3/02, aquatic therapy records 07/22/03 – 9/22/03, and FCE 10/10/03 and work hardening notes until 12/12/03.

\_\_\_ was injured while unloading a truck in a company warehouse. He developed lower back pain with lateralizing pain into his leg. This is an obese gentleman, weighing over 375 lbs. He presented to Dr. B, a chiropractor, and underwent some conservative care. MRI on 10/3/02 revealed shallow, diffuse posteriorly bulged disk at L1/L2, a posteriorly herniated disk at L4/L5 with central spinal stenosis and lateral recess stenosis bilaterally. A 1 cm grade anterolisthesis of L5 on S1 with spondylosis of L5 bilaterally was also demonstrated, associated with a 4 mm diffuse posterior superiorly protruded disc with stenosis of the lateral recesses and foramina bilaterally, more the right, at L5/S1. EMG on 10/22/02 was positive for bilateral S1 radiculopathy. A land-based exercise program was attempted, however the patient did not do well so was referred for aquatic therapy on 6/25/03, starting the program on 7/22/03. He underwent a tapering program of exercises including neuromuscular reeducation and gait training. The records demonstrate a progressive reduction in pain with increasing function, with recommendations for discharge into a land-based program on 9/22/03. He then progressed to a work hardening program in November-December 2003, and was placed at MMI on 2/18/04 with a 5% whole person impairment. Indication from the treating doctor is that the patient fully recovered and was back to work.

#### REQUESTED SERVICE(S)

Medical necessity of office visits (99211), aquatic therapy (97113), neuromuscular reeducation (97112), gait training therapy (97116). 8/11 /03 - 9/22/03.

## DECISION

Approved. There is establishment of medical necessity for all disputed services.

## 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.*

The patient sustained a lower back injury with positive objective signs on MRI and EMG. He is obese at over 375 lbs. A land-based exercise program was attempted following a period of conservative care, however apparently the patient did not do too well. Referral for an aquatics-based exercise program is appropriate under these circumstances. The patient did well with this program, demonstrating increased functional gains along with a reduced pain level.

In conclusion, appropriate treatment interventions were implemented, with positive effects. As such, the care rendered satisfied the above standard of 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, 1994, volume one, No. 4, December 1994, pp. 1-8 with the article "Back to Basics: Determining how much care to give and reporting patient progress".  
Haldeman S., Chapman-Smith D, Peterson DM., eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen: Giathersburg, MD, 1993;

Souza T: Differential Diagnosis for a Chiropractor: Protocols and Algorithms, 1997; chapter 1, pp. 3-25.  
Liebenson C. Commentary: Rehabilitation and chiropractic practice.  
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