

M5-05-1332-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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. This dispute was received on 3-31-03.

The IRO reviewed therapeutic activities, therapeutic exercises, and neuromuscular re-education.

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.

The above Findings and Decision is hereby issued this 11th day of February 2005.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

### **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 outlined above in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003; 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 5-21-02 through 7-29-02 as outlined above.

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 11th day of February 2005.

Margaret Q. Ojeda, Manager  
Medical Dispute Resolution, Medical Review Division

Enclosure: IRO Decision



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## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** February 7, 2005

**To The Attention Of:** TWCC  
7551 Metro Center Drive, Suite 100, MS-48  
Austin, TX 78744-16091

**RE: Injured Worker:**  
**MDR Tracking #:** M5-05-1332-01  
**IRO Certificate #:** 5242

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### **Submitted by Requester:**

- Table of services
- Letter of dispute from the treating physician
- Daily notes
- Surgical reports
- Designated doctor reports
- IME reports
- Referring doctor reports

### **Submitted by Respondent:**

- Letter of dispute

- Letter stating the carrier and treating provider had agreed to pay for codes 97110 in dispute
- Daily notes

### **Clinical History**

According to the supplied documentation, it appears the claimant sustained a compensable injury on \_\_\_ when the claimant was carrying a piece of equipment weighing approximately 200 pounds with a coworker. It appears the coworker dropped his end of the load putting the entire weight on the claimant causing an injury to his low back and shoulder. The claimant was referred to an orthopedic specialist in October 2001 who felt the claimant needed surgery. The claimant's primary treating doctor was Orwick L. Payne, D.C. On 2/15/02 the claimant underwent shoulder surgery with Dr. Mark Maffet, M.D. On 3/27/02 the claimant underwent an MRI of the lumbar spine which showed disc disease, spondylosis and an L5/S1 5mm disc herniation. The notes pick up in May 2002 when the claimant was undergoing active modalities to treat his lumbar complaints. On 6/11/02 the claimant was seen by J. Anthony Walter, M.D. for a designated doctor report. Dr. Walter reported that the claimant was not at MMI and needed further testing and treatment with possible back surgery. Daily notes documenting active therapies continue. Documentation continues beyond the dates of service in question.

### **Requested Service(s)**

97530 – therapeutic activities, 97110 – therapeutic exercises, 97112 – neuromuscular re-education for dates of service 5/21/02 to 7/29/02

### **Decision**

I disagree with the carrier and find that the services in dispute including 97110, 97112, and 97530 were medically necessary.

### **Rationale/Basis for Decision**

According to the supplied documentation it appears the claimant sustained an injury to his shoulder as well as his lumbar spine on 8/17/01. It appears the shoulder injury was addressed first while delaying therapy for the claimant's lumbar injury. The MRI performed in March 2002 revealed a disc herniation, therefore supporting an aggressive active therapy protocol. Eight to 12 weeks of active therapy is considered reasonable and medically necessary to try and resolve the claimant's compensable injury. This is also supported by the designated doctor report dated 6/11/02 with Dr. Walter who felt further treatment and possible surgery was necessary to help reduce the claimant's symptoms.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 7<sup>th</sup> day of February 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder