

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 30, 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 \$650.00** 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 procedures, massage, electrical stimulation, ultrasound, neuromuscular re-education, office visits, mechanical traction, aquatic therapy, and manual therapy technique were found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the therapeutic procedures, massage, electrical stimulation, ultrasound, neuromuscular re-education, office visits, mechanical traction, aquatic therapy, and manual therapy technique rendered on 12/9/03 through 1/2/04.

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 12/9/03 through 1/2/04 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 1st day of November 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

NOTICE OF INDEPENDENT REVIEW DECISION

October 27, 2004

Re: IRO Case # M5-05-0009 Raul Lopez

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board certified in Neurological Surgery, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting 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 referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Medical center notes
4. Medical center progress notes 12/9/03 – 1/2/04
5. M.D. reports 2003-2004
6. MRI cervical spine report 11/25/03
7. MRI lumbar spine report 11/12/03
8. D.C. report 1/13/04

History

The patient is a 40-year-old male who in ___ slipped with is feet going out from under him, and landing on his buttocks. He had pain in all of his spine, including his neck. He was taken off work and given physical therapy and medications for his pain, without benefit. An MRI of the lumbar spine showed multiple levels of potential trouble, without any surgically significant disk rupture. An MRI of the cervical spine showed a left-sided C5-6 disk herniation, which was not thought to be surgically significant. It also showed multiple levels of degenerative disk disease changes. After consultation with an M.D. on 12/8/03 a program of physical therapy was instituted, along with being off work for one month, pain and anti-inflammatory medications and muscle relaxants. A diagnosis of cervical and lumbar strain was made. Electromyographic evaluation was normal. The patient was not thought to be a surgical candidate, but a neurosurgeon was to be consulted if the physical therapy was not significantly helpful.

Requested Service(s)

Therapeutic procedures, massage, electrical stimulation, ultrasound, neuromuscular reeducation, office visit, mechanical traction, aquatic therapy, manual therapy technique
12/9/03 – 1/2/04

Decision

I disagree with the carrier's decision to deny the requested services.

Rationale

The patient had a diagnosis of strain, with symptoms superimposed on chronic changes in his spine. An effort was being made to avoid surgery. A rather prolonged physical therapy program is not unusual, and is frequently beneficial in relieving symptoms and avoiding surgery. The requested services are all frequently beneficial as part of such a physical therapy program.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.
