

MDR Tracking Number: M5-02-1924-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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 Medical Review Division has reviewed the IRO decision. A telephone call was made to the requestor representative on 10/30/02 seeking the current status of the IRO fee. The respondent was requested to reimburse the IRO fee and submit a response to the additional documentation according to the request sent on June 26, 2002. Per the requestor, the IRO fee was reimbursed, therefore the IRO fee reimbursement is no longer a part of this dispute

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 hot/cold gel packs were found to be medically necessary. The respondent raised no other reasons for denying reimbursement charges for the hot/cold gel packs.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
11/9/01	L1499	50.00	0.00	U	DOP	IRO decision	The IRO determined this DME was medically necessary and therefore reimbursement due: \$50.00
11/9/01	E1399	215.00	59.05	M	DOP	§133.1(a)(8)	This DME was determined by carrier to be fair and reasonable at \$59.05 per their EOB. The carrier did not submit a response to the documentation submitted with the 6/26/02 letter. Requestors documentation established this price as fair and reasonable reimbursement, therefore, reimbursement is recommended as billed, remainder due: \$155.95
TOTAL		\$265.00					The requestor is entitled to reimbursement of \$205.95

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay \$205.95 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 date of service 11/9/01 in this dispute.

This Order is hereby issued this 7th day of November 2002.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division
CRL/crl

February 25, 2002

Texas Workers' Compensation Commission
David R. Martinez, Chief
Medical Dispute Resolution
4000 South IH-35, MS 40
Austin, TX 78704-7491

Re: Medical Dispute Resolution
MDR #: M5-02-1924-01
IRO Certificate No.: IRO 5055

Dear Mr. Martinez:

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician Board Certified in Physical Medicine and Rehabilitation.

THE PHYSICIAN REVIEWER OF THIS CASE DISAGREES WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER ON THIS CASE.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

We are forwarding herewith a copy of the referenced Medical Case Review with reviewer's name redacted.

Sincerely,

MEDICAL CASE REVIEW

This is for _____. I have reviewed the medical information forwarded to me concerning TWCC Case File #M5-02-1924-01, in the area of Physical Medicine and Rehabilitation. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. The bill for an air brace or air corset which states that the amount billed for this brace was \$215.00 and \$50.00 for the gel packs, for a total of \$265.00, of which \$59.00 was paid.
2. Utilization Review summary. I believe what they are saying is that cold/hot pack therapy has to have been tried before this purchase. It is difficult to interpret their three paragraphs. This summary is dated 2/14/02.
3. Pictures from _____ for the back support belt braces.
4. Notes from the patient's doctor, _____, who ordered the AirForm back support; this is dated 11/01/01.
5. Progress notes for treatments. The treatments do indicate some heat treatments, namely ultrasound to the back. There are comments reading the MRI study which show prolapsed intervertebral disks with fissuring of the annular fibrosis, with radiculopathy.
6. X-ray of the lumbar spine.
7. Therapy progress notes.
8. Letter of medical necessity by _____, namely that the AirForm back brace is an attempt to prevent surgical intervention.
9. _____ bill statement for the AirForm back brace and the gel inserts.

B. SUMMARY OF EVENTS:

I believe what has occurred is that the patient in question had a back injury in which the dermatomal and sensory loss is noted in L4-5 and L5-S1 with weakness. There apparently have been electromyographic studies to indicate that the radiculopathy is measurable and that apparently the brace has already been given to the patient and has been successful in preventing surgical intervention. It is not clear whether the patient has gone back to work and what success the patient has had with the brace, but apparently the brace is being worn with success.

C. OPINION:

1. I have examined whether this is a reasonable cost for such a brace. I have checked with some of our providers here in the area. A lumbosacral corset costs about \$170.00 plus tax here at _____, which is one of our major providers of bracing.

2. I have examined the issue of wearing a brace for a back injury such as this. There is evidence going back to the late 1940's and early 1950's when patients were studied with transducers in the disks, and it was shown fairly conclusively, and I believe most people accept as common knowledge, that a lumbosacral corset will reduce the inter- and intra-diskal pressure when properly worn. The multitude of braces that are worn in the workforce today, unfortunately, are designed incorrectly. As I look at the pictures of the brace and its description, I believe it is correctly designed. It covers the abdomen and the back properly.

Thus, I believe that it was reasonable to order a type of lumbosacral corset for an individual with back pain and that the cost of \$215.00 is not out of line with what we are charged for similar lumbosacral corsets here in the Austin area.

The other issue is whether the gel packs and the additional \$50.00 cost has any medical rationale. To address this problem, we know that patients with back pain have what is commonly called spasm which, more correctly, would be called protective contraction, i.e., when one has pains, the muscles contract. It is also rather common knowledge and common usage that both heat and cold provide deep circulation, i.e., it is irrelevant whether one uses heat or cold, but the deep circulation increases and thus decreases pain and decreases the so called spasms when one is having pain. Thus, individually, both the hot and cold gel pack and the lumbosacral corset are reasonable appliances for an individual with back pain, and the cost is not out of line with what we pay here in Austin for the two individual appliances.

I believe the intent was to have the patient self-treat and cut back on medication and to cut back outpatient therapy by being able to wear a corset and use the hot and cold packs on an outpatient basis. It seems that this end has been accomplished. The patient has not gone to surgery; at least, I cannot tell from anywhere in the medical records that the patient has, in fact, gone to surgery. Thus, it is possible that if one considers the cost of surgery at around \$20,000 and a couple of months of surgery have been avoided, probably the corset has already paid for itself, if one considers the interest on \$20,000 over four months or so.

That is my opinion and my summary of why I believe that the AirForm brace with the hot and cold gel packs should be deemed medically reasonable and necessary. I would have to DISAGREE with the insurer who states that this is not a reasonable and medically necessary item, i.e., I believe what I am disagreeing with is the February 14, 2002, letter by ___ in their Utilization Review.

However, as I stated, it is very difficult to read those three paragraphs and try to determine exactly what they are disagreeing with. There are not complete sentences, and I simply am not sure what their disagreement is. My interpretation of those three paragraphs is that they are disagreeing with the hot and cold gel packs because they have

not been tried as an outpatient modality. There appears to be no disagreement that the back brace was medically necessary and appropriate. If I interpret this correctly, then what I am saying is that I believe the back brace was consistent with the treatment provided by ____, and there is medical evidence indicating that it is a legitimate form of therapy and, secondly, that hot and cold packs on an outpatient basis also are reasonable treatment for back pain.

D. ADDITIONAL COMMENTS:

The data which is missing, and which I am assuming, is that the corset/back brace and the gel packs have, in fact, helped the patient avoid surgery, and thus if “the proof of the pudding is in the eating,” so to speak, the back brace has helped prevent surgical intervention in this patient.

E. DISCLAIMER:

The opinions rendered in this case are the opinions of this evaluator. This medical evaluation has been conducted on the basis of the documentation as provided to me with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional service, reports or consideration may be requested. Such information may or may not change the opinions rendered in this evaluation. My opinion is based on the clinical assessment from the documentation provided.

Date: 21 February 2002