

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-03-1537.M5

MDR Tracking Number: M5-02-2586-01

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 IRO decision states, "It is determined that the durable medical equipment in the form of a water circulating unit, cold therapy wrap, electric heat pad, and water circulating pad were not medically necessary to this patient's condition. However, the durable medical equipment in the form of the tub/shower stool was medically necessary."

The Medical Review Division has reviewed the IRO decision and determined **the requestor did not prevail** on the issues of medical necessity, as the DME found not to be medically necessary had the highest MAR. Therefore, upon receipt of this Order and in accordance with §133.308(q)(9), the Commission **declines to order** the respondent party to **refund the requestor** for the paid IRO fee.

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 tub/shower stool was found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

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 date of service 7/11/01 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 7th day of November 2002.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

NOTICE OF INDEPENDENT REVIEW DECISION

October 25, 2002

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
4000 South IH-35, MS 48
Austin, TX 78704-7491

RE: MDR Tracking #: M5-02-2586-01
IRO Certificate #: 4326

___ 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 ___ for independent review in accordance with TWCC §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the rendered 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 ___ physician reviewer who is board certified in orthopedic surgery, which is the same specialty as the treating physician. The ___ physician 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.

Clinical History

This 44 year old male sustained a work related injury on ____ when he injured his lumbar spine while driving a truck. The patient underwent a 360 degree fusion from L3 to S1 on 06/28/99 and then an exploration of the posterior lumbar spinal fusion from L3 to S1 on 07/18/01. The treating physician prescribed durable medical equipment in the form of a water circulating unit, cold therapy wrap, electric heat pad, water circulating pad, and a tub/shower stool.

Requested Service(s)

Durable medical equipment in the form of a water circulating unit, cold therapy wrap, electric heat pad, water circulating pad, and a tub/shower stool.

Decision

It is determined that the durable medical equipment in the form of a water circulating unit, cold therapy wrap, electric heat pad, and water circulating pad were not medically necessary to treat this patient's condition. However, the durable medical equipment in the form of the tub/shower stool was medically necessary.

Rationale/Basis for Decision

The shower chair or tub stool is a piece of equipment that has application to safety. Patients that have weak lower extremity muscles or balance problems are at risk for falling in the shower or bathtub. The tub/shower stool provided a significant margin of safety and was medically necessary. The other pieces of durable medical equipment, including the water circulating unit, cold therapy wrap, electric heat pad, and water circulating pad, provide no proven benefit to the treatment of spine surgery patients. These pieces of equipment are considered conveniences and were not medically necessary.

Sincerely,