

MDR Tracking Number: M5-02-2923-01

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 determined that the office visits and work hardening from 7/3/01 through 7/11/01 and from 8/9/01 through 8/30/01 were medically necessary. The IRO also determined the individual psychotherapy from 8/9/01 through 8/30/01 was not medically necessary. The amount due for the medically necessary services exceeds the amount of services not medically necessary. Therefore, 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(q)(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 the only issue** to be resolved. The work hardening program was found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 22nd day of November 2002.

Noel L. Beavers
Medical Dispute Resolution Officer

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 7/3/01 through 8/30/01 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 22nd day of November 2002.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

November 05, 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 #: M5-02-2923-01
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 Rule §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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___ health care professional 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 36 year old male sustained a work-related injury on ___ when he was pulling heavy wire and was thrown to the floor. The patient heard a pop in his lower back and experienced low back pain. An MRI of the lumbar spine revealed a 2mm herniation at L5-S1 level. The patient was under the care of a chiropractor and participated in a work hardening program and associated office visits from 07/03/01 through 07/11/01 and work hardening and individual psychotherapy from 08/09/01 through 08/30/01.

Requested Service(s)

Office visits and work hardening from 07/03/01 through 07/11/01 and work hardening and individual psychotherapy from 08/09/01 through 08/30/01.

Decision

It is determined that the office visits and work hardening from 07/03/01 through 07/11/01 and the work hardening from 08/09/01 through 08/30/01 were medically necessary to treat this patient's condition. However, the individual psychotherapy from 08/09/01 through 08/30/01 was not medically necessary to treat this patient's decision.

Rationale/Basis for Decision

The medical record documentation indicates that although the patient was lifting at the heavy physical demand level on 06/21/01 prior to the work hardening program, he was experiencing some functional deficits in the form of increased lifting-related back pain for which the work hardening program was appropriate. The independent medical examination physician indicated that the patient was at maximum medical improvement as of 08/22/01 and would be able to return to work after the completion of his work hardening program. The work hardening program records indicated that at the conclusion of the program the patient was able to meet the very heavy physical demand level of function and was able to resume work duties.

The individual psychotherapy sessions were not medically necessary. The medical record documentation fails to demonstrate the presence of psychological factors that adversely affected the patient's condition. Therefore, the office visits and work hardening from 07/03/01 through 07/11/01 and the work hardening from 08/09/01 through 08/30/01 were medically necessary to treat this patient's condition. However, the individual psychotherapy from 08/09/01 through 08/30/01 was not medically necessary to treat this patient's decision.

Sincerely,