

MDR Tracking Number: M5-04-0631-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 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 October 1, 2003.

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.

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 office visits; therapeutic exercises, work hardening/conditioning and work hardening each additional hour were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for above listed services.

This findings and decision is hereby issued this 26th day of January 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

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 11/11/02 through 01/09/03 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 26th day of January 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/pr

January 23, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-04-0631-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

___ was injured when he was in the back of a truck and jumped out, falling to the ground. He reported a left leg and ankle injury and low back pain. He initially was treated at ___, later changing to ___ under the direction of ___. MRI was performed which indicated a lumbar disc herniation of up to 5 mm. Daily care was initiated and records indicate this care was conducted on a daily basis for about 2-3 months duration. The patient changed doctors yet again to ___ in August of 2002 and initiated further physical medicine. A referral was made by the new treating doctor to ___, who determined that injection therapy was appropriate.

A RME with ___ was performed and it was determined by that doctor that the patient had successfully completed his care and was at a heavy lifting capacity as of February 11, 2003.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits, therapeutic exercises, work hardening/conditioning and work hardening each additional hour.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The care on this case was extensive and that is not in doubt. However, the part of the care that was excessive is not in dispute. The work hardening program, along with the exercises and office visits, were reasonable on this patient as they are documented in the file to be helping this patient to attain a heavy level of work activity. With a 5 mm disc herniation, it does seem that this program would reasonably be expected to be required. The carrier's own doctor did indicate that the program was successful in that the patient met the goal of a heavy lifting capacity. The disputed services were rendered with the expectation and result consistent with a return to work and should be considered medically necessary.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,