MDR Tracking Number: M5-04-1546-01

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 1-30-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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 on 2/4/03, 3/7/03, 4/17/03, 5/1/03, 6/6/03, and 7/9/03 **were found** to be medically necessary. The office visits on 5/8/03, 6/11/03, 7/16/03, 7/30/03, 8/7/03 and the work hardening services from 4/14/03 through 5/12/03 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 office visits on dates of service 2/4/03, 3/7/03, 4/17/03, 5/1/03, 6/6/03, and 7/9/03 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 Decision and Order is hereby issued this 28th day of June 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

June 16, 2004

Re: IRO Case # M5-04-1546-01

Texas Worker's Compensation Commission:

___ 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 ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ 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 a Board certified in Physical Medicine and Rehabilitation, 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 ___ 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 ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

<u>Medical Information Reviewed</u>

1. Table of disputed service
2. Explanation of benefits
3. MRI lumbar spine report 12/18/02
4. Radiographic report 1/20/03
5. DDE report 4/7/03
6. Initial outpatient consultation 5/5/03
7. Note 2/4/03

8. Clinical note from D.O. 11/7/02, 12/5/03
9. EMG/NCS 12/18/02
10. D.C. clinical notes 2/2003 – 8/2003
11. FCE reports 3/13/03, 4/3/03, 4/21/03

History

The patient is a 23-year-old female who was injured on ___ while she was pulling on some wires. X-rays were obtained and she was started on physical therapy. She was referred to a D.O. on 11/7/02 for orthopedic evaluation. An MRI of the lumbar spine on 12/18/02 was significant for prominent facet joints at multiple levels. EMG findings on the same day suggested L5 radiculopathy. The patient changed her doctor to the treating D.C. in this case. The D.C. referred the patient for another orthopedic consultation, and facet injections were recommended. The patient was referred to a physical medicine and rehabilitation specialist on 3/5/03. An FCE was performed on 3/13/03 and a work hardening program was recommended.

Requested Service(s)

Ovs, work-hardening (initial and additional hours) 2/4/03 – 8/7/03

Decision

I agree with the carrier's decision to deny the requested work hardening services, and office visits on5/8/03, 6/11/03, 7/16/03, 7/30/03 and 8/7/03.
I disagree with the denial of office visits on 2/4/03, 3/7/03, 4/17/03, 5/1/03, 6/6/03, and 7/9/03.

Rationale

The patient was treated extensively with physical therapy. The records do not indicate if she was ever returned to work. An FCE on 3/13/03 demonstrated functional deficiencies in spite of the extensive physical therapy that the patient had had. No documentation ws provided for this review of any psychological or vocational issues that would necessitate a multi disciplinary work hardening program. The records do not indicate if the patient ever attempted to return to work in any capacity. Based on the records provided, the patient should have been returned to work with restrictions while she continue her rehabilitation. If this had not been possible, a single disciplinary work-conditioning program with job simulation might have been appropriate.
Follow-up office visits with the treating doctor are appropriate any necessary. A monthly basis could be reasonable in the absence of any change or worsening condition. The disputed office visits exceeded this frequency. In addition, the documentation for 8/7/03 does not support a level 3 established patient follow up visit, nor does it support the attached modifier.

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