

MDR Tracking Number: M5-04-2769-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on February 24, 2004.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on February 24, 2004, therefore the following date(s) of service are not timely and are not eligible for this review: 12-23-02 through 02-23-03.

Regarding dates of service 5-20-03 through 11-03-03, the Insurance Carrier states, "there is no Explanation of Benefits nor is there evidence that the carrier has received this employee's request for reimbursement." Therefore, these "medical bills have not been properly submitted to the carrier". These dates of service are being dismissed in accordance with Commission Rule 133.307 (m) (3).

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity.

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 Hydrocodone/Apap, Methocarb and Baclofen from 2-28-03 through 5-16-03 were 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 dates of 2-28-03 through 5-16-03 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 12th day of August, 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

June 24, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-2769-01
TWCC #:
Injured Employee:
Requestor:
Respondent:
----- Case #:

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ----- IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ----- for independent review in accordance with this Rule.

----- has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ----- external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in anesthesiology and is familiar with the condition and treatment options at issue in this appeal. The ----- physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ----- for independent review. In addition, the ----- physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 55 year-old female who sustained a work related injury on ----- . The patient reported that while at work she fell from her chair when she attempted to sit in it and it rolled from underneath her. The patient reported that she injured her buttocks, neck, left wrist and back. A MRI of the lumbar spine dated 5/11/93 indicated degenerative changes at the L4-5 and L5-S1 levels with disc desiccation and mild disc bulges, marked degenerative facet joint changes at the L4-5 level, and a grade I spondylolisthesis at the L4-L5 level. In 7/97 the patient reportedly underwent lumbar surgery. An office visit noted dated 3/31/03 indicated that the patient had recently undergone an MRI of the lumbar spine that indicated grade I spondylolisthesis at L4-5 with small protrusions at the L4-5 levels without direct nerve impingement. The current treatment for this patient has included oral medications.

Requested Services

Hydrocodone/Apap, Methocarb, Baclofen from 2/28/03 through 5/16/03.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Peer Review 4/26/02
2. Letter 3/17/03
3. EMG/NCV report 12/10/03
4. MRI report 5/11/93

Documents Submitted by Respondent:

1. Response to Request for Records 5/27/04
2. Office visit notes 4/7/98 – 7/23/03.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

Rationale/Basis for Decision

The ----- physician reviewer noted that this case concerns a 55 year-old female who sustained a work related injury to her buttocks, neck, left wrist and lower back on ----- . The ----- physician reviewer indicated that a MRI performed in 5/93 indicated degenerative changes at L4-5 and L5-S1 and grade I spondylolisthesis at L-5. The ----- physician reviewer noted that in 7/97 the patient underwent a laminectomy with bilateral foraminotomies, TSRH segmental instrumentation with pedical screws, and posterolateral fusion at the L4-5 levels. The ----- physician reviewer indicated that the patient had been further treated with epidural steroid injections, aquatherapy, physical therapy, continued medical therapy, and was enrolled in a pain management program but was discharged due to lack of motivation. The ----- physician reviewer noted that EMG studies performed in 11/99 demonstrated chronic radiculopathy L5, S1 with a superimposed more acute radiculopathy in the left S1 nerve root. The ----- physician reviewer also noted that a follow up MRI performed in 2/2000 indicated severe central and foraminal stenosis at L3-4 and foraminal stenosis at L5-S1 due to deterioration above and below the L4-5 fusion.

The ----- physician reviewer explained that the patient had been evaluated by orthopedics including a spine specialist and pain management. The ----- physician reviewer noted that the patient has been treated with numerous modalities without complete resolution of her pain. The ----- physician reviewer explained that the patient has documented radiculopathies and spinal stenosis related to her previous spinal fusion. The ----- physician reviewer also explained that this patient's pain was considered significant enough for enrollment into a pain treatment program and that the issue of a spinal cord stimulator was considered by her treating physicians. The ----- physician reviewer further explained that this patient's chronic pain condition warranted treatment with the medications in question.

Therefore, the ----- physician consultant concluded that the Hydrocodone/Apap, Methocarb, and Baclofen from 2/28/03 through 5/16/03 were medically necessary to treat this patient's condition.

Sincerely,