

MDR Tracking Number: M5-04-4119-01

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 August 2, 2004.

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 \$650.00** 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 aquatic therapy was found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the aquatic therapy.

ORDER

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 8/18/03 through 9/24/03 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 8th day of October 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

September 29, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-4119-01
TWCC #:
Injured Employee:
Requestor:
Respondent:
IRO Certificate #: 5348

___ 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 physical medicine and rehabilitation 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 33 year-old male who sustained a work related injury on ___. The patient reported that while at work he injured his back lifting light ballasts. The patient was initially treated with physical therapy consisting of pool therapy, massage, TENS unit, and medications. A MRI of the lumbar spine performed on 6/17/03 was reported to have shown a 4-5mm posterocentral discal substance herniation at the L5-S1 level. An electromyography study performed on 6/12/03 indicated a mild left S1 radiculopathy. The diagnoses for this patient have included low back strain. The patient had also been treated with epidural steroid injections followed by aquatic therapy.

Requested Services

Aquatic Therapy 97113 from 08/18/03 through 9/24/03.

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

Documents Submitted by Requestor:

1. MRI report 6/17/03
2. Electromyograph Study Report 6/12/03
3. Operative Notes 8/8/03, 10/16/03, 10/30/03
4. Physical Therapy Daily Progress Notes 8/18/03 – 9/24/03
5. Physical Therapy Initial Evaluation 4/9/03

Documents Submitted by Respondent:

1. Required Medical Examination 8/21/03

Decision

The Carrier's denial of authorization for the requested services is overturned.

Rationale/Basis for Decision

The ___ physician reviewer noted that this case concerns a 33 year-old male who sustained a work related injury to his low back on ____. The ___ physician reviewer indicated that this injury resulted in low back and left lower extremity pain, and mild left S1 radiculopathy with MRI findings of a 4-5mm disc herniation at the L5-S1 level. The ___ physician reviewer noted that the patient started with traditional physical therapy on 4/7/03. The ___ physician reviewer indicated that the patient failed to show significant improvement by 7/15/03. The ___ physician reviewer indicated that the patient was then referred out for a series of 3 epidural steroid injections. The ___ physician reviewer noted that the patient also began aquatic therapy on 8/18/03 through 9/24/03 with some reduction in pain noted. The ___ physician reviewer explained that although the patient received epidural steroid injections, this does not preclude continued physical therapy treatment to improve mobility and function. The ___ physician reviewer indicated that aquatic therapy is an accepted form of treatment for ongoing low back pain and pain related to radiculopathy. The ___ physician reviewer explained that although the treatment was not 100% beneficial in this case, it was a medically necessary adjuvant to other treatments received. Therefore, the ___ physician consultant concluded that the aquatic therapy 97113 from 08/18/03 through 9/24/03 were medically necessary to treat this patient's condition.

Sincerely,