

MDR Tracking Number: M5-04-4266-01

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 8-17-04.

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** 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.

The IRO has determined that the work hardening program (initial and additional hours) that were denied with "U" and rendered from 4/26/04 through 6/18/04 were medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On September 13, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

- CPT codes 97545 and 97546 were denied by the carrier. Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's. Although there are HCFAs in the file stamped "request for reconsideration", the documentation submitted does not provide convincing evidence of carrier receipt in accordance with Rule 133.307 (e)(2)(B). Therefore, **reimbursement is not recommended.**

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 TWCC reimbursement methodologies for Return to Work Rehabilitation Programs for dates of service after August 1, 2003 per Commission Rule 134.202(e)(5)(C) 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 4/26/04 through 6/18/04 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 8th day of November 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

October 29, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-4266-01
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 chiropractor on the ----- external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor 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 ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 63 year-old male who sustained a work related injury on ----- . The patient reported that while at work as an 18-wheeler truck driver he was rear-ended while stationary. An MRI of the lumbar spine performed on 4/24/02 was reported to have shown degenerative disc disease at the L3-4, L4-5 and L5-S1 levels, disc space collapse at the L4-5 and L5-S1 levels, and modic end plate changes at both levels. A repeat MRI of the lumbar spine performed on

4/1/03 showed a 2mm disc bulge, 50% loss of disc height associated with a 6mm calcified herniated disc compression the thecal sac, a 7mm calcified paracentral herniated disc on the right side at the L4-5 level, and a 7mm paracentral disc with extensive calcification compression the thecal sac at the L5-S1 level. The diagnoses for this patient have included facet arthrosis, lumbar radiculopathy, HNP of lumbar sacral spine, cervical spine sprain, and lumbar sacral spine sprain. Treatment for this patient's condition has included chiropractic care and injections as well as medications. The patient has also been reported to have underwent back surgery. The patient also participated in a work hardening program.

Requested Services

Work Hardening Initial 97545 and Work Hardening Each Additional Hour 97546 from 4/26/04 through 6/18/04.

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

Documents Submitted by Requestor:

1. Consultation Note 2/27/03
2. MRI report 4/1/03
3. FCE 4/26/04, 6/30/04
4. Work Hardening Team Conference Notes 5/5/04 - 6/23/04
5. Daily Progress Notes 4/26/04 – 6/22/04

Documents Submitted by Respondent:

1. No documents submitted

Decision

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

Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a male who sustained a work related injury to his back on ----- . The ----- chiropractor reviewer indicated that this patient had a severe amount of lumbar spine involvement that initially failed to respond to conservative care. The ----- chiropractor reviewer noted that the patient subsequently underwent decompressive surgery from the L3 to S1 levels. The ----- chiropractor reviewer also noted that the patient continued with marked low back and leg pain following surgery. The ----- chiropractor reviewer indicated that the patient was found to be a good candidate for a work hardening program. The ----- chiropractor reviewer explained that the patient meet all the criteria necessary to participate in the work hardening program. Therefore, the ----- chiropractor consultant concluded that the work hardening initial 97545 and work hardening each additional hour 97546 from 4/26/04 through 6/18/04 were medically necessary to treat this patient's condition.

Sincerely,