

MDR Tracking Number: M5-05-0301-01

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 9-21-04.

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 \$460.00** 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, electrical stimulation, special reports, and DME from 10-27-03 through 4-15-04 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) for dates of service through July 31, 2003; in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c); 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 10-27-03 through 4-15-04 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 Finding and Order is hereby issued this 29th day of November 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision

November 19, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-05-0301-01
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 58 year-old female who sustained a work related injury on ----- . The patient reported that while at work she injured her back when riding an escalator. Initial treatment for this patient's condition had included medication. The patient was evaluated approximately 2 weeks after the injury and underwent an MRI on 4/3/02 that revealed a small disc protrusion at L4-5 midline and left of midline that effaced the anterior left lateral thecal sac, mild resultant AP diameter stenosis to approximately 8mm, and close physical relationship of the disc material to the L5 nerve root was suspected. The patient was then treated with physical therapy and subsequently underwent a series of three epidural steroid injections. An EMG/NCV performed on 11/9/03 indicated possible left L4 or L5 radiculopathy. On 1/8/04 the patient underwent facet injections and on 1/13/04 the patient was fitted for an EMS unit.

Requested Services

Office visits, electrical stimulation, special reports, and DME 10/27/03 – 4/15/04.

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

Documents Submitted by Requestor:

1. Summary 2/13/04
2. MRI report 4/3/02
3. Chart Notes 4/18/02 – 1/15/03
4. Daily Notes 11/03/03 - 4/13/04

Documents Submitted by Respondent:

1. Follow up assessment 4/27/04
2. Same as above

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 56 year-old female who sustained a work related injury to her back on ----- . The ----- chiropractor reviewer indicated that the patient was forced to change treating doctors on 10/20/03 the patient was evaluated by her new doctor and was started on a comprehensive plan to try a different approach to treating her condition. The ----- chiropractor reviewer noted that the patient underwent extensive care that failed had failed in the previous 1½ years. The ----- chiropractor reviewer also noted that the patient's care was problem focused and involved a multidisciplinary approach. The ----- chiropractor reviewer indicated that the patient was started on a mildly invasive treatment program and was given a back brace and an EMS unit to help control her pain at home. The ---- -- chiropractor reviewer explained that this treatment offered the patient the best relief she has had to date. The ----- physician reviewer also explained that avoiding surgery was a primary goal and that objective has been met. Therefore, the ----- chiropractor consultant concluded that the office visits, electrical stimulation, special reports, and DME 10/27/03 – 4/15/04 were medically necessary to treat this patient's condition.

Sincerely,

State Appeals Department