

MDR Tracking Number: M5-05-0407-01

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, 133.307 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. This dispute was received on 09-29-04.

The IRO reviewed work hardening initial and work hardening each additional hour rendered on 10-17-03 denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 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 10-08-04, 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.

Review of CPT code 97545-WH-CA and 97546-WH-CA for dates of service 10-01-03 and 10-03-03 revealed that neither the requestor nor the respondent submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for an EOB. Per Rule 133.307(e)(3)(B) the respondent did not provide an EOB as required. No reimbursement is recommended.

This Findings and Decision is hereby issued this 28th day of December 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Enclosure: IRO Decision

November 19, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-05-0407-01
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 occupational medicine 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 58 year-old male who sustained a work related injury on ----- . The patient reported that while at work he tripped over a pole and fell on his buttocks. A bone scan performed on 8/1/02 was reported to have shown increased uptake at L2 vertebral body suggestive of a fracture or bony pathology. Initial treatment for this patient's condition included physical therapy and epidural steroid injections. The patient continued with treatment consisting of therapy and chiropractic treatment. On 3/12/03 the patient underwent an MRI of the lumbar spine that was reported to have shown a left lateral disc protrusion with encroachment upon the left L4 nerve root at L4-5, and neuroforaminal narrowing at L4-5 bilaterally with mild narrowing of the right L5-S1 neural foramin. The current treating diagnoses for this patient include lumbar segmental dysfunction, back spinal disorder, NOS, and unspecified closed bone fracture. Further treatment for this patient's condition included a Work Hardening Program.

Requested Services

Work Hardening Initial, Work Hardening each additional hour on 10/17/03.

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

Documents Submitted by Requestor:

1. Letter of Medical Necessity 2/9/04
2. Work Hardening Daily Flow Sheet 9/29/03 – 10/17/03
3. Work Hardening Daily Notes 10/1/03 – 10/17/03
4. Group Psychotherapy Progress Notes 10/3/03 – 10/17/03
5. Report of Medical Evaluation 7/8/03
6. Letter Disputing MMI rating 3/26/03
7. Peer Review 3/26/03

Documents Submitted by Respondent:

1. No documents submitted

Decision

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

Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a 58 year-old male who sustained a work related injury on ----- . The ----- physician reviewer also noted that the diagnoses for this patient have included lumbar segmental dysfunction, back spinal disorder, NOS, and unspecified closed bone fracture. The ----- physician reviewer further noted that the patient had been treated with physical therapy, chiropractic care and a work hardening program. The ----- physician reviewer explained that there is little objective information available regarding the effectiveness of work hardening/work conditioning/functional restoration. The ----- physician reviewer also explained that several studies have identified non-medical parameter which may influence the success or failure of work hardening programs as well. The ----- physician reviewer indicated that there is little information available about end points of work hardening programs besides the obvious return to work and case closure. The ----- physician reviewer also indicated that there are few guidelines regarding when the patient who has not achieved these endpoints should discontinue this programming. The ----- physician reviewer explained that the goal of completing a work hardening program would be the returning to a specific job. The ----- physician reviewer also explained that this patient did not have a job to return to.

The ----- physician reviewer noted that the documentation provided for review consisted of peer reviews. The ----- physician reviewer explained that there is no evidence that the patient has made improvement with the physical therapy, chiropractic care or work hardening program rendered to him. The ----- physician reviewer noted that the patient showed inconsistency in testing. The ----- physician reviewer explained that there is no identifiable work position that this patient would be returning to after the completion of a work hardening program. Therefore, the –

---- physician consultant concluded that the work hardening initial, work hardening each additional hour on 10/17/03 were not medically necessary to treat this patient's condition.

Sincerely,

State Appeals Department