

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 11-02-04.

The IRO reviewed work hardening and work hardening each additional hour rendered from 03-15-04 through 04-16-04 that were 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.

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 12-09-04, 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.

CPT code 97545-WH-CA (5 units) dates of service 03-29-04, 03-30-04, 03-31-03, 04-01-04 and 04-02-04 revealed that the EOBs did not list a denial code. Reimbursement is recommended per the Medicare Fee Schedule in the amount of \$320.00 (\$64.00 X 5 units).

CPT code 97546-WH-CA (30 units) dates of service 03-29-04, 03-30-04, 03-31-03, 04-01-04 and 04-02-04 revealed that the EOBs did not list a denial code. Reimbursement is recommended per the Medicare Fee Schedule in the amount of \$1,920.00 (\$64.00 X 30 units).

CPT codes 97545-WH-CA and 97546-WH-CA dates of service 04-05-04, 04-06-04, 04-07-04, 04-08-04, 04-09-04, 04-19-04, 04-20-04, 04-21-04, 04-22-04 and 04-23-04 denied with denial code "N" (peer review obtained by the carrier indicates that the documented services do not meet minimum fee guideline and/or the rules contained within the applicable AMA CPT/HCPCS coding guidelines). The requestor did not submit documentation for review. No reimbursement is recommended.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby **ORDERS** the respondent to pay for the unpaid medical fees in accordance with Medicare program reimbursement methodologies effective August 1, 2003 per Commission Rule 134.202(c), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 03-29-04, 03-30-04, 03-31-04, 04-01-04 and 04-02-04 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 Findings and Decision and Order are hereby issued this 20th day of January 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Enclosure: IRO Decision

January 10, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
EMPLOYEE:
POLICY: M5--05-0748-01
CLIENT TRACKING NUMBER: M5-05-0748-01 5278

This is an amended review (see the previous review #1127824.1 dated 12/30/04). Additional information has now been submitted.

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIOA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the case in question to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIOA for independent review.

Records Reviewed:

Records from the State:

- Notification of IRO assignment dated 12/8/04, 1 page
- Letter from Texas Worker's Compensation Commission dated 12/8/04, 1 page
- Medical dispute resolution request/response form, receipt from requestor date 11/2/04, 7 pages
- Explanation of reimbursement forms for dates 3/15/04 through 4/16/04, 20 pages

Records from Provider:

- Letter from North Texas Pain Recovery Center dated 10/4/04, 2 pages
- Work hardening notes dated 3/15/04 through 9/23/04, 69 pages

Additional Information Submitted from Provider:

- Daily note dated 4/23/04, 1 page
- Review of medical records dated 4/27/04, 4 pages
- Comprehensive medical analysis dated 4/27/04, 9 pages
- Letter from North Texas Pain Recovery Center dated 6/21/04, 2 pages
- Comprehensive medical analysis dated 7/13/04, 9 pages
- Psychiatric peer review dated 7/11/04, 5 pages
- Nurses notes dated 2/27/03 through 4/?/03 (day of month not legible), 7 pages total
- SOAP notes dated 3/5/03 through 4/16/04, 95 pages total
- Spine assessment form dated 3/5/03, 2 pages
- CareNow physical therapy evaluation summary dated 3/5/03, 1 page
- Physical therapy progress reports dated 3/13/03 and 3/20/03, 2 pages total
- Exercise flow sheet for dates 3/5/03 through 3/20/03, 1 page
- Musculoskeletal examinations dated 4/15/03 through 1/2/04, 10 pages total
- Extremity examination dated 4/15/03, 1 page
- Medical consultation report dated 4/28/03, 3 pages
- Office note dated 5/1/03, 1 page
- Initial consultation report dated 5/15/03, 3 pages
- Operative report dated 5/22/03, 2 pages
- Followup report dated 6/12/03, 1 page
- Operative report dated 6/19/03, 2 pages
- Followup report dated 7/3/03, 1 page
- Followup report dated 7/31/03, 1 page
- Followup evaluation dated 6/2/03, 2 pages
- Initial FCE report dated 6/26/03, 10 pages
- Daily notes dated 6/30/03 through 7/15/03, 7 pages total
- TPMA plan sheet dated 7/3/03, 1 page
- Visit log report dated 7/1/03 through 7/11/03, 7 pages
- Operative report dated 7/17/03, 2 pages
- Followup evaluation dated 7/21/03, 2 pages
- Active rehabilitation procedures, undated, 1 page
- Psychological screening evaluation dated 9/15/03, 3 pages

- Consultation report dated 9/15/03, 3 pages
- Physical rehabilitation evaluation dated 9/15/03, 3 pages
- Treatment plan dated 9/22/03, 3 pages
- Counseling session report dated 10/15/03, 1 page
- Psychophysiological profile assessment dated 10/22/03, 2 pages
- Consultation report dated 12/1/03, 2 pages
- TWCC-69 report dated 6/16/04, 1 page
- Functional abilities evaluation dated 12/16/03, 10 pages
- Consultation report dated 1/2/04, 2 pages
- Classification of pain dated 1/5/04, 1 page
- Followup report dated 1/9/04, 2 pages
- Followup report dated 1/13/04, 2 pages
- Weekly progress notes dated 10/29/04 through 4/127/04, 133 pages total
- Etiology of spine pain dated 1/12/04, 1 page
- Treatment options for spine pathology dated 1/19/04, 1 page
- Nutrition form dated 1/26/04, 1 page
- Arthritis form dated 2/2/04, 1 page
- Letter of recommendation for work hardening, undated, 1 page
- Headaches and chronic pain form dated 2/9/04, 1 page
- Letter from The Hartford dated 2/17/04, 2 pages
- Letter of reconsideration, undated, 1 page
- Letter from The Hartford dated 2/27/04, 2 pages
- Consultation report dated 3/25/04, 2 pages
- Consultation report dated 3/24/04, 1 page
- Consultation report dated 3/25/04, 1 page
- Procedure note dated 4/8/04, 1 page
- TWCC-69 report dated 4/29/04, 1 page
- Report of medical evaluation – TWCC-69 instructions dated 4/29/04, 2 pages
- Lumbosacral diagnosis related estimates dated 4/29/04, 1 page
- Impairment rating dated 4/26/04, 3 pages
- MRI report dated 4/10/03, 3 pages
- Internal radiographic report dated 4/16/03, 1 page
- Radiology report dated 4/16/03, 1 page
- Radiology report dated 4/29/03, 2 pages
- Electrodiagnostic results dated 4/29/03, 4 pages
- EMG/nerve conduction velocity study dated 8/20/03, 4 pages
- Texas Workers' Compensation work status reports dated 2/27/03 through 1/2/04 (one of the dates cannot be read on one of the status reports), 15 pages total

Treatment Summary/Case History:

The patient is a 24 year old female with a date of injury of ___

. Her diagnoses are low back pain, MFS, and occipital neuralgia. She had a full interdisciplinary pain management program beginning 12/30/03 with this facility for 6 weeks, including multiple ESIS, SI, occipital nerve blocks, and TPIs.

An FCE done 2/12/04 at the end of the pain program indicated that the patient could do light/medium duty. Her job encompassed medium duty. It indicated her pain was reduced from a 7 to a 3 with decreased depression scores as well. A work hardening program was begun at that time which encompassed physical conditioning as well as other treatment modalities already done in the pain program, such as psych, behavior modification, biofeedback, etc.

A prior review on this topic recommended a short course of work conditioning, not hardening, in order to get her to her required functional status. However, work hardening was pursued for over 2 months. Despite the extensive chronic pain program, she had not been returned to work of any kind. They note that their typical patients are discharged from the pain program to the work force, but they did not feel this patient was either emotionally or physically ready to do that.

The FCE in 4/04, after the work hardening, notes that despite a continued pain level of 4, the patient feels she will be able to return to work. She is listed as being able to tolerate medium level work. In comparing the two FCEs (both before and after work hardening), it is noted that the patient's ROM is either the same or only a few degrees better; her gait is the same; her activity tolerance is not improved; she is able to lift heavier boxes; her endurance has progressed from fair to good, and her pain score is essentially the same.

Questions for Review:

The dates of service in dispute are 3/15/04 through 4/16/04. Was the work hardening #97545-WH-CA and work hardening each additional hour #97546-WH-CA medically necessary? Denied with denial code V for medical necessity with peer review.

Explanation of findings:

The patient is a 24 year old female with a date of injury in _____. She had injections, medications, PT and then a multidisciplinary full 6 week pain program with more injections. Despite that, she was then enrolled in a full work hardening program, which not only encompassed the same type of modalities used in a pain program, but which also did not demonstrate much in the way of improvement. Her FCE prior to work hardening indicated pain scores of 3/10 with light/medium ability. Her FCE after work hardening showed pain scores of 4/10 with medium ability. Both the pain program and work hardening encompassed many of the same modalities, such as behavior modification, psych, and biofeedback. A work conditioning program was suggested instead in order to increase functionality, but was not done. Typically, a chronic pain program is the final step or tertiary step in treatment. It is reserved for patients who have failed to benefit from lower levels of care, such as work hardening or work conditioning. A work hardening program typically is done first, if it is done at all, and it includes many of the same treatment modalities as the chronic pain program. This patient had a minor injury, never required surgery, yet failed to benefit in any substantial way from injections, PT, a chronic pain program, and then work hardening. It does not appear that the work hardening was necessary or warranted.

Conclusion/Decision to Not Certify:

Work hardening is not medically necessary.

Applicable Clinical or Scientific Criteria or Guidelines Applied in Arriving at Decision:

Common practice among pain physicians.

References Used in Support of Decision:

1. ACOEM 2004.
2. Bonica's Management of Pain, third edition copyright '00.

The physician providing this review is board certified in Anesthesiology and is a doctor of Osteopathy. The reviewer is currently an attending physician at a major medical center. The reviewer has participated in undergraduate and graduate research. The reviewer has been in active practice since 1988.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIOA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIOA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIOA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

1132878.1

l011105a

la