

MDR Tracking Number: M5-05-1535-01

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 1-21-05.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening program from 4-29-04 through 5-20-04 was not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service are denied and the Medical Review Division declines to issue an Order in this dispute.

This Finding and Decision is hereby issued this 24th day of March 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision

March 22, 2005

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-05-1535-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: IRO 5055

Dear Ms. ____:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme
General Counsel

GP:thh

REVIEWER'S REPORT
M5-05-1535-01

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

- Correspondence
- Office notes 02/18/04 – 06/15/04
- Daily progress notes 02/20/04 – 06/08/04
- Physical therapy notes 03/04/04 – 05/27/04
- FCE's 03/01/04 – 05/26/04
- Electrodiagnostic study 04/14/04
- Radiology reports 02/23/04 – 04/14/04

Information provided by Respondent:

- Correspondence
- Designated doctor review

Information provided by Family Medicine:

- Office note 03/14/04

Clinical History:

This patient underwent diagnostic imaging and physical medicine treatments after injuring her low back on ____ in the course of her employment.

Disputed Services:

Work hardening program from 04/29/04 thru 05/20/04

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the work hardening program in dispute as stated above was not medically necessary in this case.

Rationale:

In the preamble of the Texas Workers Compensation Commission's amendments to rule 134.600, the Commission states as follows: "Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers' compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop."¹ In its report to the legislature, the Research and Oversight Council on Texas Workers' Compensation explained its higher costs compared to other health care delivery systems by stating, "Additional differences between Texas workers' compensation and Texas group health systems also widen the cost gap. These differences include...in the case of workers' compensation, the inclusion of costly and questionable medical services (e.g., work hardening / conditioning.)"² In this case, the provider's work hardening program is the type of services that may place the injured worker at medical risk and create disability mindset.

Rehabilitative exercises may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home with the least costly of these options being a home program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the provider has failed to establish why the services were required to be performed one-on-one or that multidisciplinary treatments were indicated when current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises. There is also no strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care."³ Any gains obtained during the disputed time period would have likely been achieved through performance of a home program.

¹ 26 Tex. Reg. 9874 (2001)

² "Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers' Compensation System," Research and Oversight Council on Workers' Compensation, Report to the 77th Legislature, page 6.

³ Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.

While the provider on 03/01/04 indicated that the claimant would benefit from “an active rehab program,” the medical records submitted indicate that only two units of therapeutic exercises were performed on only one date of service (03/03/04). It is perplexing why the treating doctor would discontinue therapeutic exercises (and all other active therapy) until such time as a more aggressive work hardening program could be initiated. Since a proper regimen of active therapy was not performed, the disputed work hardening program was both premature and medically unnecessary.

The records also fail to substantiate that the disputed services fulfilled the statutory requirements⁴ since the patient obtained no relief, promotion of recovery was not accomplished and there was no enhancement of the employee’s ability to return to employment. Specifically, the patient’s pain rating was 2/10 on 03/01/04; 4/10 on 04/20/04 before the initiation of the disputed treatment; and 4/10 at the termination of the disputed treatment on 06/18/04.

⁴ Texas Labor Code 408.021