

MDR Tracking Number: M5-03-1564-01

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. This dispute was received on 2-24-03.

The IRO reviewed chiropractic treatment rendered from 5-20-02 to 6-17-02 that were denied based upon "U".

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 May 14, 2003, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

On 4-8-02, the respondent gave preauthorization approval for 4 weeks of work hardening. On 5-23-02 an additional four weeks of work hardening were preauthorized. Therefore, the insurance carrier is in violation of Rule 133.301(a) by retrospectively denying preauthorized treatment based upon not medically necessary.

Neither party submitted EOBs to support services identified as "No EOB"; therefore, they will be reviewed in accordance with *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
4-5-02	90801	\$540.00	\$0.00	No EOB	\$3.00 / min	CPT Code Descriptor	90801 is a timed procedure, the requestor billed for 3 hours of testing; however, report does not document 3 hours to support billing per MFG. Therefore, no reimbursement is recommended.
4-9-02	99273	\$115.00	\$0.00	F	\$84.00	Rule 133.307(g)(3)(B)	Report to support billing per MFG was not submitted, no reimbursement is recommended.
4-9-02	99080	\$108.00	\$0.00	F	See Rules	Rule133.106	
4-9-02 4-10-02 4-11-02 4-12-02 4-15-02 4-16-02 4-17-02 4-18-02 4-19-02 4-22-02 4-24-02 4-25-02 4-26-02 4-29-02 4-30-02 5-1-02 5-2-02 5-3-02 5-6-02 5-7-02	97545WH (2 hrs)	\$102.40	\$0.00	N	\$51.20/hr X 2 = \$102.40	Medicine GR (II)(E)	Work hardening reports documents an interdisciplinary program, reimbursement is recommended of \$102.40 X 20 dates = \$2048.00.
4-9-02 4-10-02 4-11-02 4-12-02 4-15-02 4-16-02 4-17-02 4-18-02 4-19-02 4-22-02 4-24-02 4-25-02	97546WH (7.6 hrs)	\$390.00	\$0.00	N	\$51.20/hr x 6 hours = \$307.20	Medicine GR (II)(E)	Per Medicine GR (II)(E)(3) a work hardening program should not exceed 8 hours per day. The requestor is billing for 2 hours under 97545WH and 7.6 hours under 97546WH for a total of 9.6 hours each date. 9.6 hours exceeds the 8 hours allowed per day. Therefore, the Medical Review Division will allow reimbursement not

4-26-02 4-29-02 4-30-02 5-1-02 5-2-02 5-3-02 5-6-02 5-7-02							to exceed 8 hours per day. Since the initial 2 hours were recommended above under 97545WH, the additional 6 hours are recommended. The work hardening reports documents an interdisciplinary program, reimbursement is recommended of \$307.20 X 20 dates = \$6144.00.
4-10-02 4-11-02 4-12-02 4-15-02 4-16-02 4-17-02 4-18-02 4-19-02 4-29-02 4-30-02 5-1-02 5-2-02 5-3-02 5-6-02 5-7-02	99213	\$48.00	\$0.00	F	\$48.00	Evaluation & Management GR (IV) CPT Code Descriptor Rule 133.307(g)(3)(B)	Office visit reports to support billed service per MFG were not submitted, no reimbursement is recommended.
4-22-02 4-24-02 4-25-02 4-26-02	99213	\$48.00	\$0.00	G	\$48.00	Evaluation & Management GR (IV) CPT Code Descriptor Rule 133.307(g)(3)(B)	An office visit is not global to a work hardening program. Office visit reports to support billed service per MFG were not submitted, no reimbursement is recommended.
5-20-02 5-21-02 5-22-02 5-23-02 5-24-02 5-28-02 5-29-02 5-30-02 5-31-02 6-3-02 6-4-02 6-5-02 6-6-02 6-7-02	97545WH (2 hrs)	\$102.40	\$0.00	V	\$51.20/hr	Rule 133.301(a) Medicine GR (II)(E)	As stated above, preauthorization was obtained for work hardening; therefore, medical necessity issue is moot. Work hardening reports documents an interdisciplinary program, reimbursement is recommended of \$102.40 X 20 dates = \$2048.00.

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5-20-02	97546WH (7.6 hrs.)	\$390.00	\$0.00	V	\$51.20/hr	Rule 133.301(a) Medicine GR (II)(E)	<p>As stated above, preauthorization was obtained for work hardening; therefore, medical necessity issue is moot.</p> <p>Per Medicine GR (II)(E)(3) a work hardening program should not exceed 8 hours per day. The requestor is billing for 2 hours under 97545WH and 7.6 hours under 97546WH for a total of 9.6 hours each date. 9.6 hours exceeds the 8 hours allowed per day. Therefore, the Medical Review Division will allow reimbursement not to exceed 8 hours per day. Since the initial 2 hours were recommended above under 97545WH, the additional 6 hours are recommended. The work hardening reports documents an interdisciplinary program, reimbursement is recommended of \$307.20 X 20 dates = \$6144.00.</p>
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TOTAL							The requestor is entitled to reimbursement of \$16,384.00.

This Decision is hereby issued this 19th day of December 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

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 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 Decision is applicable for dates of service 4-5-02 through 6-17-02 in this dispute.

This Order is hereby issued this 19th day of December 2003.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

May 9, 2003

Re: IRO Case # M5-03-1564

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic who is licensed by the State of Texas. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient injured his neck and lower back on ___ when he was involved in a motor vehicle accident with an 18-wheeler. The patient has undergone right shoulder surgery, EMG/NCV studies, chiropractic care, physical therapy, a work hardening program, MRIs, medication and epidural steroid injections.

Requested Service

Chiropractic treatments, work hardening program 5/20/02 – 6/17/02

Decision

I agree with the carrier's decision to deny the requested treatment.

Rationale

The records provided for this review indicate that that patient's conditioned had stabilized and plateaued in a diminished condition prior to the period in dispute and that further treatment of any kind was not necessary.

In a report dated 6/29/01, the doctor stated, "since these selective nerve root blocks, he has been experiencing decreased pain across the cervical spine," and "this is the most relief he has had with his cervical spine since it began." It was also reported that he patient's lower back pain was significantly better, and that the patient "reports occasional pain with lifting or bending excessively. Otherwise his lower back is significantly better." This report was made some eleven months prior to the services in dispute.

In a report dated 11/8/02, some five months after the services in dispute were completed, the patient reported that "his symptoms have remained the same for the last several months." The doctor also reported "the examination of the cervical spine, lumbar spine and right shoulder are consistent with findings on his previous visit." The previous visit being 4/16/02, one month prior to the start of the services in dispute. The 11/8/02 continued that "the patient has been through four week work hardening program without much change, and by his own admission he has had little change in his condition."

The documentation above indicates that the services in dispute failed to relieve symptoms or improve function. The documentation provided by the treating doctor failed to show how the disputed services were necessary. The treating doctor failed to show objective, quantifiable findings to support treatment, or the work hardening program. The work hardening program failed to simulate the patient's occupational demands. Many of the exercises and conditioning that was done were primitive, non-functional, unidirectional and static in design and they failed to properly rehab the patient to deal with the demands of a very physical occupation.

In addition, the patient had sprain/strain injuries that appear to have been superimposed on preexisting degenerative changes in the cervical and lumbar spine, and they should have resolved with conservative treatment in 8-12 weeks, months before the work hardening program was initiated.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,