

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 March 26, 2003.

The IRO reviewed work hardening program rendered from 4/1/02 through 4/17/02 that was denied based upon "V".

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 not the only issue** to be resolved. The work hardening program for dates of service rendered on 4/1/02 through 4/17/02 were found to be medically necessary. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On June 24, 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 carrier denied date of service 4/17/02, CPT code 95851 as "T", however the "T" denial was abolished on January 1, 2002. The "T" denial is therefore considered an invalid denial, and the disputed charges will subsequently be reviewed according to the MFG.

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

DOS	CPT CODE	BILLED	PAID	EOB Denial Code	MARS	REFERENCE	RATIONALE
4/17/02	95851	\$45.00	\$0.00	T	\$36.00	MFG, Medicine Ground Rule (I)(E)(4) Advisory 2002-11	Review of the documentation submitted by the requester supports delivery of service, therefore the requester is entitled to reimbursement of the dispute charges.
4/17/02	95851	\$45.00	\$0.00	T	\$36.00	MFG, Medicine	Review of the

						Ground Rule (I)(E)(4) Advisory 2002-11	documentation submitted by the requester supports delivery of service, therefore the requester is entitled to reimbursement of the dispute charges.
TOTAL		\$90.00	\$0.00		\$72.00		The requester is entitled to reimbursement in the amount of \$72.00.

This Decision is hereby issued this 9th day of January 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

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 8-28-01 through 12-28-01 in this dispute.

This Order is hereby issued this 9th day of January 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/mqo

NOTICE OF INDEPENDENT REVIEW DECISION

Date: June 18, 2003

RE: MDR Tracking #: M5-03-1865-01
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a chiropractor physician reviewer. The chiropractor physician reviewer has signed a certification statement stating 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 the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

The claimant is a 36-year-old right handed, Spanish speaking, Hispanic female, 65 inches tall, weighs approximately 170 pounds, who allegedly injured her right shoulder and lower back while on the job when she was mopping a bathroom floor and slipped and fell hitting a cabinet with her right shoulder and landing on the floor. She tried to stand but fell again in the same position. The claimant was taken to the ___ where she was X-rayed, medicated, and released. MRI was performed on 06/11/02 that revealed a left lateral disc extrusion at L5-S1 with anterior displacement of the left S1 nerve root. Electromyogram was performed on 8/02/01 that revealed right sided S1 radiculopathy. A series of 3-epidural steroid injections were performed on 9/04/01, 10/04/01, and 11/13/01. On 10/24/01 ___ evaluated the claimant and reported several inconsistent positive Waddell tests. ___ assessed a 0% whole person impairment and stated, "The claimant has no significant clinical findings, no muscle guarding or history of guarding. No documented neurologic impairment, no significant loss of structural integrity and no indication of impairment related to the injury assertion per se." 11/29/01 Designated Doctor Evaluation recommended further diagnostic evaluation and stated that several Waddell's signs for non-organic low back pain were positive. ___ recommended L5-S1 discectomy, posterior lumbar interbody fusion with instrumentation on 01/11/02. 02/06/02 CT myelogram revealed a 3mm protruded disc at L4-L5 and a 3-4mm left posterior paracentral L5-S1 Herniation. Second opinion for surgical intervention was recommended by ___ on 02/27/02 even though his physical examination was essentially normal with the exception of "decreased sensation to light touch uniformly in both the left and right lower extremities. This decreased sensation is symmetric."

Requested Service(s)

Work hardening program from 04/01/02 to 04/17/02.

Decision

The work hardening program from 04/01/02 to 4/05/02 is reasonable and necessary. 04/10/02 to 04/17/02 work hardening program is not in congruence with a return to work program.

Rationale/Basis for Decision

The initiation of a work hardening program from 04/01/02 to 4/05/02 is reasonable and necessary, however; no documentation was provided for review that would support the rationale for re-instituting a work hardening program after 4-days of absence for 3-days and then again for 2-days with a 3-day gap. There is no documentation of why this lack of continuity existed. This variance is inconsistent with appropriate compliance for a return to work program and the medical necessity for its continuance was not supported by the provided documentation. This is not congruent with a 5-day a week work setting and is lacking supporting documentation.