

MDR Tracking Number: M5-03-2655-01

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 06-19-03. The fee issue for DOS 11-01-02 was withdrawn on 12-09-03 by the requestor's representative ____.

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 the only issue** to be resolved. The work hardening for 10-01-02 through 10-11-02 was found to be medically necessary. Work hardening for 10-12-02 through 10-31-02 was not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 12th day of December 2003.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay 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 Order is applicable to dates of service 10-01-02 through 10-11-02 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 Order is hereby issued this 12th day of December 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dlh

August 22, 2003

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-03-2655-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ 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 chiropractor on the ___ external review panel. The ___ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor 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 ___ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 41 year-old female who sustained a work related injury on ___. The patient reported that while at work she slipped on a wet floor and fell injuring her entire back and left shoulder. The patient was initially treated with conservative care. The patient underwent an MRI on 5/15/02 that showed a herniated nucleus pulposus at the L5/S1 level. The patient also underwent a discogram. The patient has been treated with medications, physical therapy, injections, and an IDET. The patient began a work hardening program on 9/16/02.

Requested Services

Work Hardening from 10/1/02 through 10/31/02.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

Rationale/Basis for Decision

The ___ chiropractor reviewer noted that this case concerns a 41 year-old female who sustained a work related injury on ___. The ___ chiropractor reviewer also noted that an MRI on 5/15/02 showed a herniated nucleus pulposus at the L5/S1 level. The ___ chiropractor reviewer further noted that treatment for this patient's condition has included medications, physical therapy, injections, an IDET and a work hardening program that began on 9/16/02. The ___ chiropractor reviewer indicated that the medical records show that the patient was deconditioned which can lead to additional pain after an injury. The ___ chiropractor reviewer explained that after two weeks of treatment in the work hardening program, only a small amount of progress was seen.

The ___ chiropractor reviewer also explained that given the patient's deconditioned state, an additional two weeks of treatment would be reasonable to determine if work hardening was appropriate. However, the ___ chiropractor reviewer indicated that at the end of four weeks of work hardening, the patient showed only minimal progress. The ___ chiropractor reviewer explained that at this point, further use of work hardening as a treatment measure became unnecessary and no longer of therapeutic benefit. Therefore, the ___ chiropractor consultant concluded that the work hardening from 10/1/02 through 10/11/02 was medically necessary to treat this patient's condition. However, the ___ chiropractor consultant further concluded that the work hardening from 10/12/02 through 10/31/02 was not medically necessary to treat this patient's condition.

Sincerely,