

MDR Tracking Number: M5-03-2706-01

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, 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 June 17, 2003.

The IRO reviewed work hardening and office visits rendered from 11/14/02, 11/21/02, 12/2/02, 12/10/02, 12/23/02, 12/30/02, 12/31/02, 1/2/03 through 1/8/03, 1/9/03, 1/10/03, 1/13/03, and 1/24/03 denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. 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 \$650.00** 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.

The work hardening and office visits rendered on 11/14/02, 11/21/02, 12/2/02, 12/10/02, 12/23/02, 12/30/02, 12/31/02, 1/2/03 through 1/8/03, 1/9/03, 1/10/03, 1/13/03, and 1/24/03 were found to be medically necessary.

The conductive paste gel (A4558) was not found to be medically necessary.

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 September 3, 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:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
11/14/02	97545-WH	\$128.00	\$0.00	N	\$102.40	<u>MFG, Medicine Ground Rule (II)(E)(1-10)</u>	Review of the office report supports the documentation criteria set forth by the <u>MFG</u> . Therefore, the requestor is entitled to reimbursement in the amount of \$102.40.
	97546-WH	\$384.00	\$0.00	N U-1 unit	\$307.20	<u>MFG, Medicine Ground Rule (II)(E)(1-10)</u>	The carrier as "U" denied one unit of work hardening; this unit was addressed by the IRO and found to be medically necessary. The remaining units denied by the carrier, as "N" will be reviewed according to the denial "Not documented". Review of the office report supports the documentation criteria set forth by the <u>MFG</u> . Therefore, the requestor is entitled to reimbursement in the amount of \$307.20.
11/27/02	99080	\$8.00	\$0.00	N	DOP	CPT code descriptor	Review of the position statement dated 9/3/03 revealed that the requestor provided the carrier medical records requested by the carrier. Therefore the requestor is entitled to reimbursement in the amount of \$8.00.

11/29/02	97750-FC	\$200.00	\$0.00	F	\$200.00	<u>MFG, Medicine Ground Rule (I)(E)(2)(a-b)</u>	Review of the Evaluee Data report supports delivery of service; therefore, the requestor is entitled to reimbursement in the amount \$200.00.
12/31/02	99213	\$48.00	\$0.00	G	\$48.00	<u>MFG, Evaluation/ Management Ground Rule (I)(B) & (VI)(B)</u>	The global rule concept is not applicable to office visits unless surgery has been performed and the office visit is rendered within the global period. The respondent failed to submit supporting information to indicate that the injured worker has undergone recent surgery. Therefore the requestor is entitled to reimbursement in the amount of \$48.00.
1/9/03	99213	\$48.00	\$0.00	G	\$48.00	<u>MFG, Evaluation/ Management Ground Rule (I)(B) & (VI)(B)</u>	The global rule concept is not applicable to office visits unless surgery has been performed and the office visit is rendered within the global period. The respondent failed to submit supporting information to indicate that the injured worker has undergone recent surgery. Therefore the requestor is entitled to reimbursement in the amount of \$48.00.
1/13/03	99213	\$48.00	\$0.00	G	\$48.00	<u>MFG, Evaluation/ Management Ground Rule (I)(B) & (VI)(B)</u>	The global rule concept is not applicable to office visits unless surgery has been performed and the office visit is rendered within the global period. The respondent failed to submit supporting information to indicate that the injured worker has undergone recent surgery. Therefore the requestor is entitled to reimbursement in the

							amount of \$48.00.
	E1399	\$49.00	\$0.00	N	DOP	<u>DME, Ground Rule (IV), (VIII) & (IX)</u>	Review of the office report revealed that the requestor was given a "whirlpool to help with future muscle spasm and prescribed a home exercise routine with a theraband home exercise kit to not allow the patient to loose her current physical abilities." The office report does not meeting the documentation criteria set forth by the <u>MFG, Durable Medical Equipment Ground Rule.</u> Therefore the requestor is not entitled to reimbursement of the disputed charge.
TOTAL		\$913.00	\$0.00		\$753.60		The requestor is entitled to reimbursement in the amount of \$761.60.

This Decision is hereby issued this 29th 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 11/14/02 through 1/24/03 in this dispute.

This Order is hereby issued this 29th day of January 2004.

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

REVISED 1/20/04

August 15, 2003

IRO Certificate# 5259

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An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

____ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ____.

CLINICAL HISTORY

On ____ ____ fell down the stairs at her work while running to the phone. L5-S1 was surgically fused on 4/28/01 as a result of this injury. She presented to ____ office on 8/9/02 with extreme pain and tenderness in the lower back, especially on the left with radiating pain to the buttocks and left lower leg fatigue and pain.

REQUESTED SERVICE (S)

Work hardening and office visits on 11/14, 11/21 12/2, 12/10, 12/23, 12/30, 12/31/01, 1/2 - 1/8/03, 1/9/03 [97545 & 97546], 1/10/03 1/13/03 [9745 & 97546], 1/24/03 [99214]. 11/14/02 [97546-WH], 11/20/02 [97545-WH & 97546-WH], 11/29/02 [99214], 12/23/02 [97546-WH], 1/24/03 [A4558]

DECISION

Deny conductive paste gel [A4558] due to lack of documentation that the item was actually used. All other services approved.

RATIONALE/BASIS FOR DECISION

____ has a compensable injury, which occurred ____, which resulted in a surgical fusion of L5-S1 on 4/28/01. On 8/29/02 she presented to ____ office with multiple symptoms resulting from the original injury. According to the records presented, work hardening

was authorized for four (4) weeks starting 9/18/02. Based on the amount of improvement with range of motion and muscle strength gained in the time frame from 8/23/02 to 11/29/02 while under ___ care, it would be reasonable to conclude the patient would continue to progress if further care was delivered in a similar manner, considering she still had subjective complaints though they were diminished.

Texas Labor Code states clearly that an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to care that 1) cures or relieves the effects naturally resulting from the compensable injury, 2) promotes recovery or 3) enhances the ability of the employee to return to or retain employment.

Based on the records reviewed, all three areas are addressed in this case. This is a 2-½ year old injury and as such treatment time may be longer in this case when compared to the time frame had this care been rendered immediately after surgery.