

MDR Tracking Number: M5-03-3136-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 7-31-03.

The IRO reviewed work hardening program and FCE rendered from 8-6-02 through 8-23-02.

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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 10-6-03, 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\$ (Max. Allowable Reimbursement)	Reference	Rationale
8-15-02	97545WHAP 97546WHAP	\$128.00 320.00	\$102.40 256.00	F,320	\$64.00/hr for CARF	96 MFG Med GR II E and Rule 133.307 (g)(3)	Carrier paid at the non-CARF rate with denial "F, 320 – non-accredited interdisciplinary program. Payment reduced 20% below MAR or 20% below usual and customary. Requestor submitted relevant information to support its CARF accreditation. Recommend additional reimbursement of \$89.60.
TOTAL		\$448.00	\$358.40				The requestor is entitled to reimbursement of \$89.60.

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 date of service 8-15-02 in this dispute.

This Order is hereby issued this 27th day of January 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

September 19, 2003

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-03-3136-01

___ 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 reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. 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 34 year-old female who sustained a work-related injury on ___. The patient reported that while at work she slipped in a wet spot on the floor, falling to the ground injuring her right ankle and low back. The patient underwent X-Rays and a MRI on 7/13/01 showed a 2mm disc protrusion at C5-C6 and a 5mm disc protrusion at the L5-S1. The patient underwent a lumbar laminectomy from L5-S1. The diagnoses for this patient included lumbar radiculopathy, herniated nucleus pulposus at L5-S1, lumbago, cervicgia, and cervical myorascial injury. The patient has also been treated with physical epidural steroid injections, physical therapy, chiropractic treatment and work hardening program.

Requested Services

Work hardening & functional capacity evaluation from 8/6/02 through 8/23/02.

Decision

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

Rationale/Basis for Decision

The ___ chiropractor reviewer noted that this case concerns a 34 year-old female who sustained a work related injury to her right ankle and low back on ____. The ___ chiropractor also noted that the diagnoses for this patient included radiculopathy, herniated nucleus pulposus at L5-S1, lumbago, cervicgia, and cervical myofascial injury. The ___ chiropractor reviewer further noted that the patient participated in a work hardening program from 8/6/02 through 8/23/02. The ___ chiropractor reviewer indicated that for an injured employee to participate in a work hardening program, the enrollee must fit the entrance criteria. The ___ chiropractor reviewer explained that the criteria for a work hardening program would be that the person would likely benefit from the program, the person's current levels of function due to illness or injury interfere with their ability to carry out specific tasks required in the work place, the person whose medical/psychological or other conditions do not prohibit participation in the program, and the person who is capable of attaining specific employment upon completion of the program. The ___ chiropractor reviewer noted that an FCE from 7/23/02 indicated that the patient had static lifting force ranging from 42lbs. on torso lift to 67lbs. on arm lift. The ___ chiropractor reviewer also noted that the patient's dynamic lifting capacity ranged from 40lbs. (floor to shoulder) and 55lbs (knuckle to shoulder). The ___ chiropractor reviewer indicated that the patient's job as a packer is listed on the medium strength level in the Dictionary of Occupational Titles (D.O.T.). The ___ chiropractor reviewer explained that the patient was deemed to be functioning at a light level. However, the ___ chiropractor reviewer also explained that according to the D.O.T, medium work capacity requires occasional lifting (21-50lbs.) frequent (11-21lbs.) and constant (1-10lbs.). The ___ chiropractor further explained that the patient fits into the medium capacity and not the light category.

The ___ chiropractor reviewer indicated that the documentation provided did not demonstrate that a mental health evaluation was performed prior to the patient beginning the program to determine the injured worker's readiness for the program. The ___ chiropractor reviewer explained that because of the patient's current level of functioning and the lack of a mental health evaluation, the patient did not meet the criteria necessary for entrance into a work hardening program. Therefore, the ___ chiropractor consultant concluded that the work hardening & functional capacity evaluation from 8/6/02 through 8/23/02 were not medically necessary to treat this patient's condition.

Sincerely,