

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-04-2297.M5

MDR Tracking Number: M5-03-3241-01

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 (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 August 21, 2003.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the king size mattress, roller frame and headboard were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As king size mattress, roller frame and headboard were not found to be medically necessary, reimbursement for date of service 4/10/03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 4th day of October 2003.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division
MQO/mqo

NOTICE OF INDEPENDENT REVIEW DECISION

Date: October 15, 2003

RE: MDR Tracking #: M5-03-3241-01
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 an Orthopedic Surgeon physician reviewer who is board certified in Orthopedic Surgery and has an ADL Level 2. The Orthopedic Surgeon 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 has a history of chronic back pain allegedly related to a work injury on _____. Report of MRI of lumbar spine on 07/27/94 indicates mild anular disc bulge at L5-S1, developmentally wide canal at that level, and no evidence of spinal stenosis or foraminal encroachment. The claimant exhibited a normal neurological examination following the alleged injury to the lower back.

Requested Service(s)

King size mattress, roller frame, headboard.

Decision

I agree with the insurance carrier that the requested intervention is not medically necessary.

Rationale/Basis for Decision

Generally, there are no controlled studies in the peer review literature to indicate sleeping surface has any significant effect on the natural history of chronic back pain. There is no documentation of a rationale explaining the medical necessity of the requested furniture for medical use. There is no documentation that the furniture is specifically designed for any medical purpose per se. Due to the lack of documentation the requested intervention is not reasonable or medically necessary in this clinical setting. The FDA (42 CFR 414.202) defines DME as having four characteristics: 1) Can withstand repeated use; 2) Is primarily and customarily used to serve a medical purpose; 3) Generally is not useful to the individual in the absence of an illness or injury; and 4) Is appropriate for use in the home. Using the FDA definition, a mattress is not DME.