

MDR Tracking Number: M5-02-1944-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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 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(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for 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.

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 session was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the work hardening session.

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 date of service 2-09-01 through 2-09-01 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 22nd day of May 2002.

Dee Z. Torres, Medical Dispute Resolution Officer
Medical Review Division

DZT/dzt

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and subsequently re-delegated by Virginia May, Deputy Executive Director.

May 17, 2002

Re: Medical Dispute Resolution
MDR #: M5-02-1944-01

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a Chiropractor.

THE PHYSICIAN REVIEWER OF THIS CASE DISAGREES WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER ON THIS CASE.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

We are forwarding herewith a copy of the referenced Medical Case Review with reviewer's name redacted.

Sincerely,

MEDICAL CASE REVIEW

This is ___ for ___. I have reviewed the medical information forwarded to me concerning Case File #M5-02-1944-01, in the area of Chiropractic. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Medical Dispute Resolution Request/Response.
2. Table of disputed services.
3. EOB.
4. Denial of services performed by the insurance carrier.
5. Letter from ___ from the law firm of ___, providing a summary of carrier's position.
6. Letter from ___, indicating his MDR position.
7. Medical Dispute Resolution findings and decision, dated 12/18/01, by ___ Dispute Resolution Medical Review Division.
8. Records, test results, and reports - 45 pages.

B. SUMMARY OF EVENTS:

The patient was injured on the job on ___, when he reported that he was lifting a steel pipe to load into a machine and felt a pop in his lower back.

He stated that he continued to work and at lunchtime he cooled down and ate. Afterwards, when he went to stand up, a sharp severe pain occurred and stopped him in his tracks. He reported his injury to his supervisors on September 15, 1999.

The patient presented himself for initial examination and evaluation to ____ on September 15, 1999, where he was evaluated by ____ . Evaluation and x-rays were performed, and treatment was begun. Over the next one year and three months, diagnostic evaluations were performed, in addition to referrals to other providers. This is documented in the records. However, a summary of the specifics of this treatment will not be discussed as it does not pertain to this specific MDR request.

On January 4, 2001, the patient underwent a Functional Capacity Evaluation, the results of which revealed the patient needed work hardening prior to being able to return to his occupation of a pipefitter, which is a heavy-duty classification.

C. OPINION:

I DISAGREE WITH THE DETERMINATION MADE BY THE UTILIZATION REVIEW AGENT ON THIS CASE.

Reviewing the file indicated the patient was, in fact, injured on the job and treatment was begun. Over the period of time from September 14, 1999, through January 4, 2001, the patient received a variety of diagnostic evaluations, medical consultations, and treatment. He began a work hardening program on January 8, 2001. Per TWCC guidelines, the work hardening program does not need pre-authorization for the initial six weeks. However, if an additional two weeks are needed, pre-authorization must be obtained. The records indicate that the insurance carrier gave pre-authorization approval for two additional weeks of work hardening. Therefore, medical necessity for the initial six weeks of work hardening is supported. The carrier's position of eight hours of work hardening provided on February 9, 2001, was not medically necessary or reasonable is incorrect. The prior Medical Dispute Resolution findings dated December 18, 2001, rendered by David R. Martinez, indicated the work hardening program was medically necessary in this case. Given the fact that this MDR decision found that the dates of service for work hardening of 2/05/01, 2/06/01, 2/07/01, 2/08/01, 2/12/01, 2/13/01, etc., were medically necessary, it is obvious to conclude that the date of service 2/09/01, which is the date which is in dispute, was also medically necessary.

In rendering my opinion, the *TWCC Treatment Guidelines* are very clear, and there are two separate and distinct programs, i.e., work conditioning

and work hardening. Having reviewed all documentation, it is my professional opinion the service provided to the patient on 2/09/01 was appropriate and medically necessary in order to promote recovery and to enhance his ability to retain employment.

D. DISCLAIMER:

The opinions rendered in this case are the opinions of this evaluator. This medical evaluation has been conducted on the basis of the documentation as provided to me with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional service, reports or consideration may be requested. Such information may or may not change the opinions rendered in this evaluation. My opinion is based on the clinical assessment from the documentation provided.

Date: 16 May 2002