

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

SOAH DOCKET NO. 453-03-0095.M5

MDR Tracking Number: M5-02-2143-01

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

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 work hardening rendered was not medically necessary.

Based on review of the disputed issues within the request, the Division has determined that the work hardening rendered was the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 4/16/01 to 5/25/01 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 11th day of July 2002.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/crl

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, 7/11/02.

May 24, 2002

Re: Medical Dispute Resolution
MDR #: M5-02-2143-01
IRO Certificate No.: IRO 5055

___ 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 medical case review is attached. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Board Certified in Physical Medicine & Rehabilitation.

THE PHYSICIAN REVIEWER OF THIS CASE AGREES WITH THE DETERMINATION OF THE INSURANCE CARRIER.

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.

Sincerely,

MEDICAL CASE REVIEW

This is Dr. ___ for ___. I have reviewed the medical information forwarded to me concerning Case File #M5-02-2143-01, in the area of Physical Medicine and Rehabilitation. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Request for review of denial of work hardening program from April 16, 2001, through May 25, 2001.
2. ___ correspondence and documentation.
3. Radiographs and MRI reports.
4. Rehabilitation notes from work hardening program.
5. Functional capacity evaluation.
6. Peer review assessment completed by ___, M.D.
7. Designated doctor assessment of maximum medical improvement and impairment rating completed by ___, M.D.

B. SUMMARY OF EVENTS:

This is a 42-year-old female who sustained a right upper extremity injury to the wrist and elbow on ___. The initial treatment plan is not particularly clear as there are limited clinical medical records provided in this case. It would appear that she had gone through a fair amount of treatment under the supervision of ___, D.C. The treatment was chiropractic and response to treatment from ___, D.C. was not provided in this case.

She was treated for approximately a year and a half and then was entered into a work hardening program. Prior to being entered into a work hardening program, there was a functional capacity evaluation and psychological assessment as to the suitability of her work hardening program.

It should be noted that the imaging studies completed during the course of care were essentially negative, and the MRI did not demonstrate any specific pathology. There was identification of a slight possible impingement syndrome. Electrodiagnostic testing was negative as well.

She underwent the designated doctor evaluation by Dr. ____, and he felt there was an impingement syndrome and little else in the way of specific pathology. He felt there were degenerative changes in the cervical spine as well.

A peer review was completed by Dr. ____ who felt that the work hardening program was not indicated secondary to the fact that there was very little evidence that this lady had any improvement despite extensive therapy under the care of ____, D.C. Moreover, this lady complained of pain all the time and that she could not function at all secondary to her right upper extremity repetitive-use injury.

After the medical peer review completed by Dr. ____, a rebuttal was provided from the therapy experts and signed by ____, a collections person.

C. OPINION:

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

There is no clinical evidence presented, based on the materials reviewed, that would support the need for a work hardening program in this lady. As noted in the physical examination portion, this is an obese lady with endomorphic body type. Her deconditioning far exceeds the scope of reasonable and necessary care to treat an impingement syndrome to the shoulder. Moreover, this deconditioning is not a function of the compensable injury and is not within any parameters to treat an impingement syndrome. Additionally, noting that there are complaints for the better part of two years and there is a complete lack of objective pathology to support the complaints.

While noting that this was a lady who had a repetitive job syndrome, the clinical aspects of the work hardening program address issues far in excess of the compensable injury. Therefore, based on the fact that the compensable injury was limited to the right upper extremity and cervical spine, based on the fact that this is an lady type demonstrating deconditioning far in excess and prior to the compensable injury, that the complaints of pain are not supported by any objective pathology as noted on imaging studies or electrodiagnostic studies, and there has been no response to any of the treatments prior to this work hardening program, there is no clinical indication for entering into a work hardening program.

The findings of the functional capacity evaluation notwithstanding, this was a lady who could easily participate in her job and she failed to participate not only in her job but failed to participate in her care, as there was no response to any of the treatments provided.

The screening criteria used were generally accepted medical guidelines.

D. ADDITIONAL COMMENTS:

There is a significant amount of medical records from the work hardening program. There had been marginal gains noted in the work hardening program. However, someone who is participating in such an intensive program should have demonstrated gains far in excess of what was reported here. There is a lack of medical evidence supporting the referral to a work hardening program from the primary treating physician or any other treating physicians in this program.

It should be noted that one of the items identified in the response provided by the collections agent was that Dr. ___ was not in a position to assess or address the medical necessity for this case. That is clearly not what the rule intended or states in the actual text of the rule. Furthermore, if there is to be a rebuttal to a physician, a collections agent should not be the individual providing that rebuttal.

E. 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: 22 May 2002