MDR Tracking Number: M5-02-2303-01

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** 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 conditioning program, work hardening program, and FCEs were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these charges.

The above Findings & Decision are hereby issued this 24th day of September 2002.

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

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 dates of service 6-27-01 through 8-13-01 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 per Rule 133.307(j)(2).

This Order is hereby issued this 24th day of September 2002.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dzt

NOTICE OF INDEPENDENT REVIEW DECISION

September 13, 2002

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
4000 South IH-35, MS 48
Austin, TX 78704-7491

RE: MDR Tracking #: M5-02-2303-01
IRO Certificate #: 4326

____ 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 rendered 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 a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ____ health care professional 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

This 47 year old male sustained a work related injury on ___ when he was lifting a bracing for a wall, turned to the left and twisted his left knee. The patient complained of pain and knee swelling and was evaluated by a chiropractor that provided treatment including passive therapies and modalities. Part of the patient's treatment included a work-conditioning program from 06/27/01 through 07/11/01; a work hardening program from 07/23/01 through 08/13/01 and functional capacity evaluations (FCE) performed on 07/19/01 and 08/09/01.

Requested Service(s)

97545(WCAP) and 97546(WCAP) – Work conditioning from 06/27/01 through 07/11/01.
97545(WHAP) and 97546(WHAP)– Work hardening from 07/23/01 through 08/13/01
97550-FC – Functional capacity evaluation performed on 07/19/01 and 08/09/01.

Decision

It is determined that the 97545(WCAP) and 97546(WCAP) – Work conditioning from 06/27/01 through 07/11/01, the 97545(WHAP) and 97546(WHAP) – Work hardening from 07/23/01 through 08/13/01, and the 97550-FC – Functional capacity evaluation performed on 07/19/01 and 08/09/01 were medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The patient experienced a knee injury on ___ and underwent a course of passive and active care. A physical performance test administered on 05/09/01 revealed deficits in the left knee. A subsequent physical performance test administered on 06/14/01 revealed that some improvements had taken place in left knee function but deficits in strength and flexibility remained. The patient began a course of work conditioning and then underwent a functional capacity evaluation on 07/19/01 that revealed he was functioning at the medium physical demand level and his job required very heavy physical demand level functioning. The patient began a course of work hardening and underwent another FCE on 08/09/01, which revealed that the he was functioning at the medium-light physical demand level. As the patient was not able to return to his job based on testing results, the FCE, work conditioning, and work hardening were medically necessary.

According to King, more that half of the clients served returned to their usual and customary jobs. (King PM, "Outcome analysis of work-hardening programs", Am J Occup Ther 1993 Jul;47(7):595-603)

Petersen conducted a study to determine the success of a work hardening program that included physical, occupational, and psychological therapies, and to determine if there are nonphysical factors associated with successful work hardening. One hundred medical records of injured workers with low back pain and other musculoskeletal disorders were retrospectively reviewed. Factors examined included months of injury, education level, sex, race, presence of an attorney, prior surgery, pain behaviors, smoking, medication use, and diagnosis severity. Seventy-six percent of the subjects successfully completed the program, and 50% of the subjects were returned to work at discharge. Nonphysical factors that limited successful work hardening were presence of pain behaviors ($p<.01$). attorney representation ($p>.01$), McAndrews score above 70 ($p<.05$), and education less than high school ($p<.05$). The author concluded that the return to work rate for injured workers in this study is comparable to rates of previous studies and that there are nonphysical factors associated with success of work hardening. (Petersen M. "Nonphysical factors that affect work hardening success: a retrospective study", J Orthop Sports Phy Ther 1995 Dec;22(6):238-46).

Sincerely,