

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 program was found to be medically necessary. The respondent raised no other reasons for denying reimbursement charges.

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 2/5/01 through 3/27/01 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 25th day of, June 2002.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division

DRM/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.

June 19, 2002

Texas Workers' Compensation Commission
Medical Dispute Resolution
4000 South IH-35, MS 48
Austin, TX 78704-7491

Attention: Carol Lawrence

Re: Medical Dispute Resolution
MDR #: M5-02-2310-01
IRO Certificate No.: I RO 5055

Dear Ms. Lawrence:

___ 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 Doctor of Chiropractic Medicine.

THE REVIEWER OF THIS CASE DISAGREES WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER. A WORK HARDENING PROGRAM WAS MEDICALLY NECESSARY BASED ON RELEVANT CLINICAL FINDINGS AND HIS PRESENT PHYSICAL ABILITY TO ENTER INTO AND ENDURE A SIX (6) HOUR WORK HARDENING PROGRAM.

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,

Secretary & General Counsel

MEDICAL CASE REVIEW

This is for ____, ____. I have reviewed the medical information forwarded to me concerning TWCC Case File #M5-02-2310-01, in the area of Chiropractic. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Medical Dispute Resolution Request, dated 4/11/02.
2. EOB's, for dates 2/01/01 to 3/01/01 denied.
3. Letter requesting IRO, dated 5/06/02, by ____.
4. Letter from the carrier maintaining its position of denial, 4/05/02.
5. Case Review/Peer Review, dated 2/10/01, by ____.
6. Case Review/Peer Review, dated 1/21/00, by ____.
7. Work hardening notes by ____ ranging from 2/22/01 to 3/27/01, including reconditioning exercise chart, daily work schedule, daily work hardening assessment sheet, daily checklist agenda, work hardening weekly staffing report, cardiovascular activity, and dumbbell exercise sheet.
8. Psych progress notes, dated 1/08/01 to 3/22/01, six sessions in total.
9. Treating doctor evaluation, pre-work-hardening, 2/01/01.
10. Interim FCE, 4/03/01.
11. Initial FCE, 9/18/00.

B. SUMMARY OF EVENTS:

The patient was a painter working for ____. On ____, the patient bent over and injured his low back and midback region. He went to ____ for evaluation and treatment. He returned to work and then was taken off due to intolerable pain. He was then put on regular duty with his condition/pain getting worse. Recommendations for home exercises and physical therapy are noted. He was put on light duty eventually.

He then saw ____ and reviewed the MRI which was taken on 9/27/99 by ____, and identified a herniation of the L-2 disk with superiorly extruded disk fragment with mild displacement of the descending right L-3 nerve root and, also, left L-5 posterolateral disk protrusion

with associated annular fissure abutting the descending left S-1 nerve root in close proximity to the L-5 nerve root. ___ prescribed Vioxx, Ultram, and a Cybertek brace. Physical therapy was also prescribed with moist heat, ultrasound, EMS, myofascial release, and McKenzie exercises.

Diskograms of the lumbar spine were prescribed with ____. Surgery by ___ was recommended after the procedure. A second opinion was recommended.

On 12/03/99, the patient submitted a TWCC-53 for change of treating doctor, and the request was approved with the new doctor, ____.

On 12/30/99, the patient presented to ___ for evaluation and treatment. Treatment included ice, hot packs, mechanical traction, EMS, and myofascial release. He was referred to ____, a medical doctor, with a home muscle stim unit prescribed.

___ referred the patient to ___ for a second opinion on surgery. The patient declined to have lumbar surgery.

TWCC requested an opinion on spinal surgery with the result that the patient was not a good candidate.

ESI's were recommended, with ___ providing them on 2/28/00. On 2/29/00, ___ conducted an RME and stated the patient was not at MMI. Second ESI sessions were provided on 3/13/00.

On 5/19/00, IDET procedure was recommended. It was denied. An MUA was recommended by ___ on 7/17/00, including five sessions of MUA procedure performed by ____.

On 9/14/00, a second RME with ___ was conducted, stating that the patient was not at MMI. On 9/18/00, initial FCE was provided. On 10/24/00, IDET procedure was performed by ____.

On 2/01/01, ____, the treating doctor, performed a comprehensive physical exam and recommended work hardening. Work hardening started 2/05/01 and went through a course and ended approximately 3/27/01.

A final FCE was performed by ___ on 4/03/01.

C. OPINION:

1. I DISAGREE WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER ON THIS CASE.

2. The specific reason why this patient warrants and is a candidate for a work hardening program starts with his relevant clinical findings and his present physical ability to enter into and endure a six-hour work hardening program. ___ presented a goal-oriented, individualized treatment program designed to maximize the ability of the patient to return to work. Functional, physical, behavioral, and vocational needs were met by ___ program. In my review, simulated work activities and physical conditioning tasks were presented.

The patient was likely to benefit from a work hardening program. His current levels of function due to his injury interfered with his ability to carry out specific tasks required in the workplace. His medical and physiological condition did not prohibit participation in the work hardening program. ___ also presented documentation from group therapy sessions, provided by a qualified mental health provider, as required in work hardening.

___ utilized an FCE which demonstrated deficits which justified his goals in the work hardening program. The patient has not previously gone through a highly structured, supervised program previous to the recommendation of the work hardening program by ___. No contraindications were identified, and the patient was capable of performing the work hardening activities indicated which ___ exam information presented.

3. The general source of the screening criteria used is spinal treatment guidelines and Medical Fee Guidelines 1996.
4. IN SUMMARY, the patient meets all required criteria by ___ for entrance into a work hardening program.

The patient did not previously have a structured and supervised program as that of ___ work hardening program.

There were no contraindications for work hardening.

The patient was capable of performing the activities and meeting the goals of a work hardening program set forth by ___.

Appropriate medical-necessitated pre-work-hardening protocols and treatment were met previous to ___ testing and recommending the work hardening program.

- D. ADDITIONAL COMMENTS:
None.

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: 17 June 2002