

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

SOAH DOCKET NO. 453-03-0105.M5

MDR Tracking Number: M5-02-2324-01

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 and FCE rendered were not medically necessary.

Based on review of the disputed issues within the request, the Division has determined that the work hardening and FCE rendered were 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 3/19/01 to 4/24/01 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.

NOTICE OF INDEPENDENT REVIEW DECISION

CORRECTED LETTER

**NOTE: Dates of Service and
 Requested service**

June 27, 2002

David Martinez
Chief, Medical Dispute Resolution
Medical Review Division
Texas Workers Compensation Commission
4000 South IH-35, MS 40
Austin, TX 78704-7491

RE: MDR Tracking #: M5-02-2324-01
 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 42 year old female sustained a work-related injury on ____. The mechanism of injury occurred by pulling a machine handle (to put it in gear) while working as a machine helper. The onset of symptoms was one hour later and consisted of left shoulder, left wrist and neck pain. The treatment plan included a work hardening program from 03/19/01 through 04/20/01 and a FCE on 04/24/01 for the diagnosis of cervical radiculitis and myalgia.

Requested Service(s)

Work hardening program from 03/19/01 through 04/20/01 and FCE on 04/24/01.

Decision

It is determined that the work hardening program from 03/19/01 through 04/20/01 and FCE on 04/24/01 were not medically necessary.

Rationale/Basis for Decision

The records indicated that the patient had over one year of supervised medical care with no apparent benefit. The patient was seen by a medical doctor and two chiropractors that certified her to be at maximum medical improvement (MMI) and indicated that at the most, supportive care would be needed for the future.

The patient was examined by ___ on 02/24/00 and the examination revealed full active range of motion of the cervical spine, including flexion, extension, rotation bilaterally, and lateral bending bilaterally. The patient also demonstrated full range of motion of both upper extremities, including the shoulders, elbows, wrists, and hands. No abnormal neurological findings were noted in either upper extremity and strength in all motor groups of both upper extremities was normal on 05/05/00. There was no evidence of peripheral entrapment in either upper extremity. ___ certified the patient at MMI for her injuries related to the ___ work related injury.

___ evaluated the patient on 09/18/00. He noted that the patient had a documented history of pain, rigidity, and spasticity in excess of 6 months, with diagnoses of cervical somatic dysfunction and shoulder sprain. His report indicated that the patient's cervical orthopedic examination and the neurological exam were unremarkable; and, reflexes in the upper extremity and sensory status were normal. The report indicated the patient's upper extremity and cervical region was assessed through pinwheel examination and through computerized muscle testing, which revealed no notable disorder. Cervical ranges of motion were reduced, indicating that the range of motion values were entirely due to rigidity of her cervical muscles and no additional impairment was afforded due to previous impairment for muscle rigidity. ___ indicated

that the patient was at MMI, however, there was a great likelihood that follow-up care would be necessary. The follow-up care should be prescribed on an as needed basis, as determined by the treating doctor.

___ subsequently evaluated the patient on 12/18/00, who indicated that the patient was at MMI with respect to her cervical and shoulder injuries and that she would not substantially improve over the next 12 months. He further indicated that future supportive care would be helpful in dealing with exacerbations as well as her ability to maintain and retain her employment.

On 03/07/01 the patient underwent a functional capacity evaluation (FCE) that revealed global weakness in the left upper extremity and decreased cervical range of motion. The patient was classified in the sedentary-light duty category based on the FCE and her job classification required medium-heavy work capacities. The patient was sent to a work hardening program and was subsequently classified in the light duty category at the end of the program. The 02/28/01 report from ___ also indicated that the patient had sensory deficits in the median and ulnar distribution of the left hand, which was a finding not previously noted on three other evaluations.

According to TWCC Guidelines, the admission requirements for a work hardening program include: 1) persons who are likely to benefit from the program; 2) persons whose current level of functioning due to illness or injury interferes with their ability to carry out specific tasks required in the workplace; 3) persons whose medical, psychological, or other conditions do not prohibit participation in the program; and 4) persons who are capable of attaining specific employment upon completing the program.

In view of the findings from the information reviewed, the patient was not a candidate for the program in that she was not likely to benefit from the program. On the 03/07/01 FCE her level of function was at sedentary-light and it was extremely unlikely that a work hardening program would return her to the medium-heavy level of performance in light of the previous treatment history. None of the doctors who independently examined the patient indicated that she would be a candidate for work hardening. Additionally, the TWCC Medical Guideline Ground Rules indicate that the "work hardening program is a highly structured, goal-oriented, individualized treatment program designed to maximize the ability of the persons served to return to work". A review of the notes pertaining to the program revealed little to no individualized treatment related to the patient's functional deficits. Much attention was directed at cardiovascular endurance and low back/leg related activities, however activities directed at the weakness in the upper extremities was sparse and the intensity of training too low to produce and measure improvement. Therefore, the work hardening program and the FCE were not medically necessary.

Sincerely,