

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 amount due for the services found medically necessary did not exceed the amount due for the services found not medically necessary. Therefore, the Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, in accordance with §133.308(q)(9), the Commission hereby **Declines to Order** the respondent to refund the requestor for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

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 functional capacity evaluation of 10/20/01 was found to be medically necessary. The office visits, physical therapy, work conditioning and work hardening were found to be not medically necessary. The respondent raised no other reasons for denying reimbursement.

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 4/13/01 through 1/16/02 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 4th day of April 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

September 10, 2002

Re: Medical Dispute Resolution
MDR #: M5-02-2397-01
IRO Certificate No.: IRO 5055

Dear

___ 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 physician who is Board Certified in Chiropractic Medicine.

The physician reviewer PARTIALLY AGREES with the determination of the insurance carrier in this case. The reviewer is of the opinion that the functional capacity evaluation on 10.20.01 was medically necessary. However, the office visits and work hardening for the period 04.13.01 through 01.16.02 were not medically necessary.

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 MDR #M5-02-2397-01, in the area of Chiropractic. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Table of Disputed Services.
2. EOB's from July 24, 2001, to January 16, 2002.
3. Letter from ___ of ___.
4. Resubmission report from ___ dated February 8, 2002.

5. Pre-operative report from ____, dated October 4, 2001.
6. Pre-operative report from ____, dated August 17, 2001.
7. Retrospective peer review from ____, dated July 23, 2001.
8. Office visit notes, dates October 22, 24, 26, 29, 31; November 2, 5, 7, 9, 12, 14, 16, 19, 21, 23; December 4, 18, 2001; and January 4, 9, 16, 2002.
9. Work conditioning reports from July 24, 2001.
10. Office visit notes from April 27, 2001, and April 13, 2001.
11. Work hardening progress notes from August 20, 2001, to September 28, 2001.
12. FCE report, dated October 20, 2001.
13. MRI reports from ____.

B. BRIEF CLINICAL HISTORY:

The patient was injured on the job on ____, while shrink-wrapping a pallet of pipes. The patient received passive and active treatments and completed a work-hardening program at _____. The patient has had an MRI to the left shoulder and cervical spine which showed tendinitis in the left elbow with no full-thickness tear or tendon retraction seen, and 2-3 mm disk bulges at C3-C4 and C5-C6.

C. DISPUTED SERVICES:

Office visits, work hardening, physical therapy, and FCE.

D. DECISION:

I PARTIALLY AGREE WITH THE DETERMINATION OF THE INSURANCE CARRIER IN THIS CASE.

E. RATIONALE OR BASIS FOR DECISION:

First, in regards to the FCE dated October 20, 2001, I believe that it was medically necessary as a diagnostic assessment of the patient's functional level at that time.

Second, in regards to the work conditioning and work hardening from July 24, 2001, to September 28, 2001, I do not believe the program was medically necessary. According to the medical records provided, it was noted that the patient began treatment at ____ on about January 16, 2001. According to the records, the patient's pain scale level on February 2, 2001, was a 3 on a scale of 10, with 10 being the highest. This pain level was achieved after approximately 14 to 15 office therapy visits (according to ____ who states in his report that the patient was seen twice a day for the first week and three times a week for the next seven weeks). An office note dated April 13, 2001, stated that the patient's pain scale that day was 3 of 10, on a 10 pain scale. At that point, the patient had received 12 weeks of physical therapy and rehab for his injuries, and his pain level was still the

same as it was on February 2, 2001. In addition, an FCE dated April 17, 2001, showed that the patient was functioning at a light-work level at that time.

It would seem that after over three months of physical therapy, the patient would have made progress in his symptoms and pain level with the amount of therapy he had received. This leads me to believe that the patient had plateaued in his therapy, and further treatment after April 17, 2001, not medically necessary. In addition, two doctors put the patient at maximal medical improvement (___ on July 19, 2001, and ___ on August 17, 2001), before the patient was entered into the work hardening program. This further emphasizes that the patient had reached a plateaued state in his rehab.

In short, the work hardening, physical therapy, and office visits in dispute were not medically necessary. However, the FCE was necessary as a diagnostic tool to assess patient function.

F. 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: 13 September 2002