

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

**SOAH DOCKET NO. 453-03-3238.M5**

MDR Tracking Number: M5-02-2400-01

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 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 FCE and the work hardening program were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the 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 not the only issue** to be resolved. There is still an unresolved fee dispute.

The requestor billed for a work hardening program on 8/30/01 and 8/31/01. The carrier denied these two dates of service for "A – preauthorization required." Documentation supports the work hardening program began on 8-20-01. Rule 134.600(h)(11) effective 4-1-97 states preauthorization is required for work hardening in excess of six weeks. The disputed dates of service are in the second week of the work hardening program; therefore, preauthorization is not an issue. The review will be per the Medical Fee Guideline (MFG). Documentation does not support hours billed – only 42 minutes documented on 8-30-01 and 61 minutes documented on 8-31-01. Weekly progress report was not documented for week of 8-27 thru 31-01. Per MFG Medicine ground rules II. E., the documentation did not meet the criteria for a work hardening program. No reimbursement can be recommended for these two dates of service.

The above Findings and Decision are hereby issued this 9<sup>th</sup> day of April 2003.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

DZT/dzt

**IRO Certificate #4599**

**NOTICE OF INDEPENDENT REVIEW DECISION**

August 19, 2002

**Re: IRO Case # M5-02-2400-01**

Texas Worker's Compensation Commission:

\_\_\_ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IRO's, TWCC assigned this case to \_\_\_ for an independent review. \_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, \_\_\_ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic licensed by the State of Texas and who also is a Certified Strength and Conditioning Specialist. He or she has signed a certification statement attesting 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 referral to \_\_\_ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The \_\_\_ reviewer who reviewed this case has determined that, based on the medical records provided, the requested treatment was not medically necessary. Therefore, \_\_\_ agrees with the adverse determination regarding this case. The reviewer's decision and the specific reasons for it, is as follows:

History

This case involves a 21-year-old female who developed numbness, swelling and pain in both wrists from using a computer over a long period of time. She was diagnosed with bilateral carpal tunnel syndrome and villonodular synovitis. The patient has undergone an extensive work hardening program.

Requested Service(s)

Work hardening program 8-6-01 through 9-28-01

Decision

I agree with the carrier's decision to deny the requested services.

Rationale

Initial evaluation of the patient by the treating clinic and rehabilitation center showed her pain was rated 5/10 on a 0-10 pain scale. Daily evaluation showed her pain was never below 5/10 and frequently was 6 or 7 throughout the work hardening program. It was noted on a regular basis that the patient woke up with numbness and pain. It was also stated that the patient "continued to complain of 5-5.5/10 pain and sleep disturbance in the fourth week of rehabilitation on psychological evaluation. Notes on 9/12/01 and 9/18/01 state that the patient complains of frequent headaches, dizziness and increased neck and shoulder pain. The patient stated that she felt "sharp pain" in her wrists. On 9/12/01 the patient stated that she felt an adjustment on her neck would help her feel better. She was told on 9/18/01 to "follow up with MD if she is concerned about pain." There is no mention that anything was done about the patient's request on two occasions to have "an adjustment" on her neck to help her feel better or follow up with an MD. The records indicate no improvement of her symptoms, and, if anything, the work hardening program was having a iatrogenic effect. Her initial subjective complaints were intensified and new symptoms, headaches, dizziness, and arm and elbow pain were developing, yet the work hardening program continued. Patient compliance does not appear to be a problem; her effort was noted as being good to excellent. It is very apparent that the work hardening program failed and was the improper form of treatment for this patient.

If proper treatment had been initiated earlier, the patient might have responded well. The patient's pain of 5/10 on 8/6/01 could have been very manageable without a work hardening program if treated with chiropractic care. With proper instruction on strength and conditioning, an "at home" program can be very successful.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

**YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing. A request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3). This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P O Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.