

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 conditioning, work hardening and FCE's were found to be medically necessary. The respondent raised no other reasons for denying reimbursement charges for the work conditioning, work hardening and FCE's.

This Finding and Decision is hereby issued this 7th day of October 2002.

Carol R. Lawrence
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 3/19/01 through 5/7/01 in this dispute and IRO fee.

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 7th day of October 2002.

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

DRM/crl

NOTICE OF INDEPENDENT REVIEW DECISION

August 28, 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 #: M5-02-2438-01
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 32 year old female sustained a work-related injury to her low back on ___ while attempting to lift a cart loaded with heavy material, and one of the wheels landed in a hole. The clinical and diagnostic evaluation revealed a L5-S1 disc herniation with left-sided radiculopathy. The plan of care included medications, physical therapy, epidural steroid injection, functional capacity evaluations (FCE), work conditioning, work hardening and microdiskectomy.

Requested Service(s)

1) Work conditioning from 03/19/01 through 03/23/01; 2) work hardening from 03/26/01 through 05/04/01; 3) FCE on 03/23/02; and 4) FCE on 05/07/01.

Decision

It has been determined that 1) work conditioning from 03/19/01 through 03/23/01; 2) work hardening from 03/26/01 through 05/04/01; 3) FCE on 03/23/01; and 4) FCE on 05/07/01 were medically necessary.

Rationale/Basis for Decision

There is evidence of degenerative joint disease and disc herniation in the lower lumbar spine as per MRI and CT studies. The patient's symptoms are consistent with the diagnosis of L5-S1 disc herniation as per three physician's examinations on 09/00, 03/13/01 and 03/27/01. The medical records revealed that she was unresponsive to passive care. A FCE is a reasonable and customary step with patients who have complicating factors or who do not progress. It revealed, objectively, the level of impairment and function. Hart and Mathban, Journal of Orthopedic Sports Physical Therapy 1993, wrote that indication for FCE is treatment plateau. The Quebec Task Force on Spinal Disorders, Spine 1987, stated that a FCE should be mandatory on any patient still experiencing pain after 6-7 weeks. The need for the work-conditioning and work-hardening programs is supported by objective evidence of a problem revealed by MRI and CT and due to the disability resulting from the problem as demonstrated by the FCE. The FCE on 05/07/01 revealed demonstrable objective improvement as a result of the work hardening program. Therefore, the work conditioning, work hardening and FCE's were medically necessary.

Sincerely,