

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

SOAH DOCKET NO. 453-03-1188.M5

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 for the work hardening program.

This Finding and Decision is hereby issued this 16th 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 6/26/01 through 8/3/01 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 16th day of, October 2002.

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

DRM/crl

October 11, 2002

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

REVISED CORRESPONDENCE AND MEDICAL REPORT

Attention: Rosalinda Lopez

Re: Medical Dispute Resolution
MDR #: M5-02-2449-01
IRO Certificate No.: IRO 5055

Dear Ms. Lopez:

This letter is to correct our correspondence of September 24, 2002, which contained incorrect dates in dispute.

The independent review was performed by a matched peer with the treating health care provider. A Doctor of Chiropractic Medicine reviewed this case.

The reviewer DISAGREES with the determination of the insurance carrier in this case. The reviewer is of the opinion that the work hardening program from 06/26/01 through 08/03/01 was medically necessary.

I am the Secretary and General Counsel of ___ and I certify that the reviewing physician 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.

Sincerely,

MEDICAL CASE REVIEW

This is for _____. I have reviewed the medical information forwarded to me concerning MDR #M5-02-2449-01, in the area of Chiropractic and Work Hardening. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Medical Dispute Resolution Request/Response.
2. Table of Disputed Services.
3. Explanation of Benefits of insurance carrier denying payment, total 24 pages.
4. Physician reports from _____ indicating his opinion that the work hardening program was not medically necessary, total 6 pages.
5. Records from _____, total 20 pages.
6. Records from _____, total 5 pages.
7. Initial examination report, progress examination reports, and SOAP notes from _____, the treating doctor, total 120 pages.
8. Records including an EMG report from _____, total 8 pages.
9. FCE reports, records and work hardening notes from _____, total 114 pages.
10. MRI report results, total 2 pages.

B. BRIEF CLINICAL HISTORY:

The records indicate the patient was involved in a motor vehicle accident while at work on _____. The patient presented for care with _____. A treatment program was begun, and over the course of treatment, additional diagnostic testing was performed as well as referral for a specialist consult. In addition, the patient was referred to _____ for a work hardening program.

C. DISPUTED SERVICES:

Work hardening program from 6/26/01 through 8/03/01.

D. DECISION:

I DISAGREE WITH THE DETERMINATION OF THE INSURANCE CARRIER IN THIS CASE.

E. RATIONALE OR BASIS FOR DECISION:

The records indicate the patient was injured on the job on _____. A treatment plan was instituted, and appropriate diagnostic testing was

performed. The patient progressed to the point where he was referred to a work hardening program at _____. It is my opinion the records clearly indicate this patient was an ideal candidate for a work hardening program. The apparent justification that the insurance carrier used for denial was _____ opinion that work hardening was not medically necessary since the patient did complete a work conditioning program and, before that, kinetic activities or rehab exercises.

In rendering my opinion, the *TWCC Treatment Guidelines* that were in effect at the time of these services are very clear, and there are two separate and distinct programs, i.e., work conditioning and work hardening. In conclusion, having reviewed all documentation, it is my professional opinion the work hardening services provided to this patient were appropriate and medically necessary in order to promote recovery and to enhance his ability to retain employment.

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: 20 September 2002