MDR Tracking Number: M5-02-2515-01

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 Medical Review Division has reviewed the IRO decision and determined that **the respondent prevailed** on the issues of medical necessity. Therefore in accordance with §133.308(q)(9), the Commission hereby **Declines to Order** the respondent to reimburse the **requestor** 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 disputed work hardening program, PPE and office visits with manipulations were found to **not** be medically necessary. The respondent raised no other reasons for denying reimbursement for these services.

This Decision is applicable to dates of service 9/13/01 through 3/8/02 in this dispute.

This Decision is hereby issued this 30th day of October 2002.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

September 27, 2002

Re: MDR #: M5.02.2515.01
IRO Certificate No.: IRO 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. n 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. A physician who is a doctor of Chiropractic medicine reviewed this case.

The physician reviewer AGREES with the determination of the insurance carrier in this case. The reviewer is of the opinion that the work hardening program from 11.05.01 through 12.14.01 WAS NOT MEDICALLY NECESSARY.
The PPE on 09.25.01 WAS NOT MEDICALLY NECESSARY. The office visits with manipulation from 09.13.01 to 03.08.02 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 #M5-02-2515-01, in the area of Chiropractic. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. TWCC MR-117 dated July 24, 2002.
2. TWCC-60, Medical Dispute Resolution Request/Response, 3 pages.
3. TWCC-60, Table of Disputed Services, 6 pages.
4. Explanation of Payment, 45 pages.
5. Provider opinion of denied charges, 4 pages.
6. Carrier position on denied charges, dated 8/02/02, 4 pages.
7. Provider response to reviewer denial of services, 2/21/02, 2 pages.
8. Provider response to reviewer denial of services, 2/18/02, 2 pages.
9. Utilization Review, dated 9/10/01, 3 pages.
10. Utilization Review pre-authorization denial, not dated, felt to be generated the end of December 2001.
11. Psychophysiological assessment, not dated, 2 pages.
12. Psychological Evaluation Report, dated 01/31/02, 6 pages.
13. Four reports from ___, dated 8/24/01 through 10/15/01, 5 pages.
14. Daily patient records, SOAP notes, 17 pages.
15. PPE report, dated 9/25/01, 10 pages.
16. PPE report, dated 11/09/01, 15 pages.
17. PPE report, dated 12/07/01, 15 pages.
18. NIOSH Lift test, shoulder and cervical spine range of motion summary graphs, 6 pages.
19. Group therapy records, 6 pages.
20. Job cards, 6 pages.
21. Therapy progress notes, 6 pages.
22. Daily Hours and Activity Notes, 6 pages.
23. Work Hardening / Work Stimulator sheets, 6 pages.
24. Work Hardening Stretching Exercises, 6 pages.
25. Work Hardening Exercise sheets, 6 pages.

B. BRIEF CLINICAL HISTORY:

This patient sustained an injury to the head, neck and shoulder while working as a supervisor for ___. On ___, a box fell from two stories above and struck him on the back of the head, neck, back and shoulder. Shortly following the injury, he began to experience dizziness, numbness of his hand, and swelling in his back. He subsequently was referred to ___, the company "doctor."

He has received x-rays and MRI's. The MRI of the cervical spine demonstrates a 1.0 mm disc protrusion at C7-T1 with no obvious neuroforaminal compromise. The MRI of the shoulder demonstrates marrow edema within the superior aspect of the humeral head, Type III acromion with mild acromiohumeral space narrowing. There was mild degenerative signal within the posterior supraspinatus but no evidence for tearing of the cuff.

Treatment has been of the conservative nature consisting of manipulation, modalities, work conditioning, work hardening, oral medications, and injections.

C. DISPUTED SERVICES:
DOS 11/05/01 to 12/14/01 for Work Hardening, Codes 97445 and 97546.
DOS 9/25/01, PPE (97750).
DOS 9/13/01 to 3/08/02, Office Visits with Manipulation (99213-MP).

D. DECISION:
I AGREE WITH THE DETERMINATION OF THE INSURANCE CARRIER IN THIS CASE.

E. RATIONALE OR BASIS FOR DECISION:
Guidelines listing criteria for determining which patients may benefit from work conditioning or work hardening are not currently recognized in Texas by the chiropractic licensing Board, State associations, or practice and parameters committees. The general consensus is that candidates for work conditioning and work hardening is a judgmental call, determined by many possible variations of clinical presentations. *The Texas Worker's Compensation Commission Medical Fee Guidelines of 1996* which adopted its work conditioning, work hardening, outpatient medical rehabilitation, and chronic pain management guidelines from *The Commission of Accreditation and Rehabilitation Facilities (CARF) 1994 Standards Manual* appear to be the generally accepted guidelines.

From a document authored by Craig Liebenson entitled, *The Purpose of Spinal Rehabilitation: Integration of Passive and Active Care*: "Most third-party payors have experienced ongoing treatment for chronic musculoskeletal pain without any realistic endpoints of care. There are no objective tests from which to determine the need for appropriate care or the conclusion of it." " However, there is a sound rationale for spinal rehabilitation for chronic musculoskeletal pain. Whereas palliative measures, in particular spinal manipulation, give much needed symptomatic relief and improved activity tolerance in acute pain patients, it is exercise which is proven to be effective in chronic situations."

In a document authored by K.D. Christensen, D.C. entitled, *Physiotherapy and Rehabilitation Guidelines for the Chiropractic Profession*: He recommends implementing Work Hardening in Stage 4 of treatment program. Stage 4 is the rehabilitation stage of treatment following the 7 to 12 week subacute remodeling phase. "Each clinician must depend on his or her own knowledge of chiropractic and expertise in the use or modification of these materials and information. Generally, passive care is time limited, progressing to active care and patient functional recovery." "Further research appears necessary in order to obtain a consensus of the clinical guidelines of the application of specific physiotherapy rehabilitative procedures, concerning the restoration of function and prevention of disability following disease, injury, or loss of body part."

DOS 11/05/01 to 12/14/01 for Work Hardening, Codes 97445 and 97546
Carrier Reason for Denial - "These were all denied as unnecessary medical treatment because the patient had already completed a work conditioning program."

Treating Provider Response - "I have enclosed graphs from the Functional Capacity Evaluations that show significant increases in range of motion and strength. It should be evident per the objective testing that work hardening provided substantial improvement." "No physician or reviewer can pre-determine the outcome of any care until the care has been tried. (This patient) responded with favorable results in our work hardening program."

Independent Review Response - I do not find anywhere in *TWCC Medical Fee Guidelines* or any other document which would exclude or prohibit a patient from participating in a work hardening program because of prior enrollment in a work conditioning program. However, if work conditioning fails to achieve desires and goals to promote recovery, it is doubtful that a work hardening program would produce significant results to justify the additional medical care. Additionally, the main difference between work conditioning and work hardening is the presence of identifying and treating the psychological barriers in recovery. Documentation fails to support the medical necessity of addressing any psychological component prior to entering a work hardening program.
Independent Reviewer is of the opinion that work hardening from 11/05/01 through 12/14/01 was not medically necessary.

DOS 9/25/01, PPE (97750)
Carrier Response - "This was denied due to lack of necessity, as continued PPE's had not altered the patient's treatment plan."

Treating Provider Response - "Regular re-evaluations during a patient's treatment program are necessary and important to ascertain whether or not the treatment is providing benefits above and beyond what would be anticipated from the normal course of healing. The use of computerized muscle testing and dual inclinometer range of motion testing eliminates examiner bias and gives a better objective picture of the patient's condition."

Independent Reviewer Response - The clinical reasoning submitted by the provider is not felt to be medically necessary in treatment of this patient.
Independent Reviewer is of the opinion that PPE on 9/25/01 was not medically necessary.

Chiropractic Office Visits with Manipulation (99213-MP)
Carrier Response - No clinical documentation has been submitted to support the necessity for a total of 74 E & M codes over a 10-month period of time.... Documentation to show "substantive, continued improvement over time" has not been submitted for review.

Treating Provider Response - "Patients are seen in the clinic once or twice a week for chiropractic manipulation and to evaluate their ongoing progress while participating in multi-disciplinary programs."

Independent Reviewer Response - Evaluating ongoing progress is included in a work hardening program. Office Visit with Manipulation may be considered distinct and separate from a work hardening program unless it was provided at the same time as the work hardening visit.
Independent Reviewer is of the opinion that office visits with manipulations were not medically necessary.

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.

I certify that I have no past or present relationship with the patient and no significant past or present relationship with the attending physician. I further certify that there is no professional, familial, financial, or other affiliation, relationship, or interest with the developer or manufacturer of the principal drug, device, procedure, or other treatment being recommended for the patient whose treatment is the subject of this review. Any affiliation that I may have with this insurance carrier, or as a participating provider in this insurance carrier's network, at no time constitutes more than 10% of my gross annual income.