

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 IRO report indicated that work hardening from 10/8/01 through 11/2/01 was medically necessary. Work hardening from 11/5/01 through 11/30/01 was not considered medically necessary. The reimbursement amount for services not considered medically necessary exceed the amount determined medically necessary. On this basis, the Medical Review Division has reviewed the IRO decision and determined that **the respondent prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(q)(9), the Commission **Declines to Order** the respondent to refund the requestor for the paid IRO fee.

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 10/8/01 through 11/2/01 was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these work hardening charges.

This Finding and Decision is hereby issued this 15th day of November.

Noel L. Beavers
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 10/8/01 through 11/2/01 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 15th day of November 2002.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/nlb

October 29, 2003, 2002

Re: Medical Dispute Resolution
MDR #: M5.02.2779.01
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 a Certified Chiropractic Doctor.

CLINICAL HISTORY:

The patient injured her back on the job on ____. She underwent chiropractic manipulation and passive physical therapy. She had a trial of an epidural steroid injection, and she underwent active physical therapeutic exercises. The patient failed under those programs, and she had evaluations by an orthopedist with a recommendation of continued physical therapy. The patient then underwent a work hardening program, with an apparent return to work.

DISPUTED SERVICES:

The work hardening program that was completed, with the inclusive dates of 10/08/01 through 11/30/01.

DECISION:

The reviewer partially agrees with the determination of the insurance carrier in this case. The reviewer finds that four weeks of work hardening (10/08/01 through 11/2/01) was medically necessary. Work hardening from 11/05/01 through 11/30/01 was not medically necessary.

RATIONALE FOR DECISION:

The North American Spine Society Phase 3 Clinical Guidelines for Multi-Disciplinary Spine Care Specialists lays out the treatment protocol for a non-surgical herniated disk injury. The synopsis is:

Phase 1 – Medication, passive therapies, and manual manipulation is appropriate.

Phase 2 – The failure of Phase 1 to respond appropriately indicates there should be further diagnostic tests and evaluation. Initiating more active therapies along with epidural injections and change in medications.

Phase 3 – The failure of the patient to respond appropriately to Phase 2

indicates the need for further evaluation including psychosocial and biomechanical, along with functional evaluation. Treatment is then initiated with an interdisciplinary-based work hardening program which lasts up to ten (10) weeks. Documentation of the patient's improvement in meeting goals in each area of the interdisciplinary program is essential for continued care.

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.

Sincerely,