

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 11th 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 1/7/02 through 2/01/02 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 11th day of October 2002.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/crl

NOTICE OF INDEPENDENT REVIEW DECISION

October 2, 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 #: M5-02-2781-01
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 30 year old male sustained a work-related injury on ____. As a press operator for a construction company, he was lifting a heavy mold out of the press when he felt a sharp pain in his low back. The clinical and diagnostic work-up revealed lumbar sprain/strain, lumbar disc herniation at L4-5 and L5-S1 posteriorly and lumbar radiculopathy. The treatment plan included physical therapy, medication and a work hardening program from 01/07/02 through 02/01/02.

Requested Service(s)

Work hardening program from 01/07/02 through 02/01/02

Decision

It has been determined that the work hardening program from 01/07/02 through 02/01/02 was medically necessary.

Rationale/Basis for Decision

The patient injured his back in a work-related lifting incident on ___ and went through a trial of conservative care. Diagnostic imaging studies revealed a lumbar disc herniation at L4-5 and L5-S1 and symptoms consistent with radiculopathy. A functional capacity evaluation (FCE) done on 07/26/01 revealed that the patient was functioning below his required physical demand level of medium-heavy. Another FCE done on 01/07/02 revealed sub optimal performance as well. The patient went through four weeks of work hardening and was able to meet the physical demand level of medium-heavy after completion of the program as evidenced on a 02/04/02 FCE.

According to King, the most frequent condition treated was injury to the lumbar spine. Most patients were treated and discharged within a 3-week period. More than half of the patients served returned to their usual and customary jobs (King PM, "Outcome analysis of work-hardening programs", *Am J Occupational Therapy* 1993 Jul; 47(7): 595-603).

Breissner et al conducted a study to identify factors that predict successful work hardening outcomes. Two measures were used: return to work and case closure (i.e. resolution of medical treatment issues). Persons with spine related injuries who complete a work hardening program were the subjects. The authors found that three months after program completion, 68% of the subjects had returned to work and 86% had successful case closure. Twelve months after program completion, 77% of the subjects had returned to work and 90% had successful case closure. The more treatment subjects received prior to entering the program, the less likely they were to be working or achieving case closure following treatment. Subjects' work status and initial time off of work were factors predicting early return to work, but not 12 months after program completion (Beissner KL, Saunders RL, McManis BG. "Factors related to successful work hardening outcomes", *Physical Therapy* 1996 Nov; 76(11): 1188—201).

Petersen conducted a study to determine the success of a work hardening program that included physical, occupational and psychological therapies, and to determine if there are nonphysical factors associated with successful work hardening. One hundred medical records of injured workers with low back pain and other musculoskeletal disorders were retrospectively reviewed. Factors examined included months of injury, education level, race, sex, presence of an attorney, prior surgery, pain behaviors, smoking, medication use, and diagnosis severity. Seventy-six percent of the subjects successfully completed the program, and 50% of the subjects were returned to work at discharge. Nonphysical factors that limited successful work hardening were presence of pain behaviors ($p < .01$), attorney representation ($p < .01$), McAndrews score above 70 ($p < .05$), and education less than high school ($p < .05$). The author concluded that the return to work rate for injured workers in this study is comparable to rates of previous studies and that there are nonphysical factors associated with the success of work hardening (Petersen M. "Nonphysical factors that affect work hardening success: a retrospective study", *J Orthopedic Sports Physical Therapy* 1995 Dec; 22(6): 238-46). Therefore, the work hardening program from 01/07/02 through 02/01/02 was medically necessary.

Sincerely,