

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 11<sup>th</sup> 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 1/18/02 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 11<sup>th</sup> day of October 2002.

Roy Lewis  
Medical Dispute Resolution  
Medical Review Division

RL/crl

October 2, 2002

Re: Medical Dispute Resolution  
MDR #: M5.02.2826.01  
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. A physician who is a doctor of Chiropractic medicine.

The physician reviewer DISAGREES with the determination of the insurance carrier in this case. The reviewer is of the opinion that the work hardening program from 01.07.02 through 01.18.02 **WAS MEDICALLY NECESSARY** in this case.

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 #M5-02-2826-01, in the area of Rehabilitation. The following documents were presented and reviewed:

- A. MEDICAL INFORMATION REVIEWED:
1. TWCC-60, Table of Disputed Services.
  2. Peer review report, 01/16/02, \_\_\_ and \_\_\_.

3. Impairment Rating and Independent Medical Evaluation, 02/04/02, \_\_\_\_.
4. Letter, \_\_\_\_, 08/14/02.
5. Functional Capacity Evaluation, \_\_\_\_, 11/14/01.
6. \_\_\_\_ report, \_\_\_\_, 06/26/01.

B. BRIEF CLINICAL HISTORY:

The patient was working as a pipefitter for \_\_\_\_ in \_\_\_\_ on \_\_\_\_ when he was injured. The patient states he was struck in the back with the shovel-portion of a backhoe which caused him to be thrown forward across a steel pipe. The patient states he was unaware of the accident and lost consciousness when he was thrown onto the steel pipe. The patient began treatment with \_\_\_\_ on 08/13/01. An FCE was performed on 11/14/01, and the patient was placed into a work hardening program for six weeks. A peer review was performed on 01/16/02 by \_\_\_\_.

C. DISPUTED SERVICES:

The carrier has denied payment for work hardening services rendered on the following dates: 01/07/02 through 01/11/02, 01/04/02 through 01/18/02.

D. DECISION:

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

E. RATIONALE OR BASIS FOR DECISION:

1. It is evident from the medical records supplied on this review that the basis for the need of work hardening therapy has been established. The patient had an FCE on 11/14/01 which showed functional deficits in manual materials handling. Psychosocial elements also existed in this evaluation that manifested in depression. The musculoskeletal injuries and mechanism of injury will lead to a more involved recovery into the workforce, and I feel that a work hardening program can help the patient transition back into the workforce.
2. The records indicate that \_\_\_\_ was operating in a multi-disciplinary format due to recommendations to continue work hardening from \_\_\_\_ on 12/31/01.
3. In addition, on 09/20/01, \_\_\_\_, in an Independent Medical Evaluation, stated the patient would reach MMI in 12-16 weeks. This time frame coincides very nicely with the termination of the patient's work hardening program.

4. The *Clinical Practice Guidelines for Chronic Non-Malignant Pain Syndromes II: An Evidence-Based Approach*, developed by the Siskin Hospital for Physical Rehabilitation states, "Addressing vocational and disability needs is an important part for many chronic non-malignant pain syndrome patients. This is not specifically an evidence-based recommendation; rather, it is a practical and obvious one to meet the important goal of optimizing function, including return to work where appropriate."
5. The *Unremitting Low Back Pain: North American Spine Society, Phase III Clinical Guidelines for Multi-Disciplinary Spine Care Specialists* refers to work hardening and vocational rehabilitation as secondary and tertiary phase recommendations. I believe that the patient's care in this case followed these nationally established recommendations.

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.

Date: 30 September 2002