

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

SOAH DOCKET NO. 453-03-1068.M5

MDR Tracking Number: M5-02-2884-01

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening rendered was not medically necessary.

Based on review of the disputed issues within the request, the Division has determined that the work hardening fees were the only fees involved in the medical dispute to be resolved. As the treatment, work hardening was not found to be medically necessary, reimbursement for dates of service from 10/1/01 through 11/9/01 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 10th day of October 2002.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/crl

October 9, 2002

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5 02 2884 01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Doctor of Chiropractic. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

___ injured his right shoulder while working as a machine operator placing pipes into a machine. Apparently the mechanism of injury occurred when he pushed a pipe hard, feeling a tearing sensation in his shoulder. He reported the injury to his employer and was referred to the company clinic, where he was X-rayed and placed on modality exercises and given a pain prescription. He requested a change of treating physicians after about three to four weeks and presented to ___, a chiropractor, who instituted a conservative care regimen. MRI performed on 6/5/2001 revealed a small 3 mm partial tear of the supraspinatous tendon at the lateral insertion into the greater tuberosity association with tendinosis or tendonitis. The patient was then referred to ___, an orthopedic surgeon, on 6/19/2001. His impression was a rotator cuff tear, right shoulder with a type 3 acromion process. His recommendation was for an arthroscopic repair of the rotator cuff and an acromioplasty with related procedures. This was performed at the beginning of July, 2001, and the patient began a postoperative rehab/physical therapy regimen. A functional capacity evaluation was performed on 8/21/2001. This placed him in the light work category within a restricted work plane, with accommodations required for forward reaching and lifting restriction of 33 pounds occasionally above shoulder height and 27 pounds occasionally knuckle to shoulder height. The evaluator felt that the patient provided a valid effort during the evaluation, without any obvious psychosocial issues identified.

A follow-up FCE was performed on 10/1/2001. Again this identified the patient to be performing in the light PDL. He had limitations with overhead reaching in the repetitive movements test to weakness with the right shoulder. The validity criteria show the patient to put forth good effort without any psychosocial limitations identified. A psychological evaluation was performed on 10/2/01 by ___. His report identifies the completion of a brief psychological screening test comprised of a battery of psychological outcome assessment tools. Unfortunately the results of these tests are not available. The psychologist's report merely states that "based on the assessment the patient is an appropriate candidate for multidisciplinary work hardening program." The patient then underwent a work hardening program between 10/1/01 and 11/9/01. A discharge functional capacity evaluation was performed on 11/27/01 and revealed that the

patient had improved so as to be classified in the medium physical demand level for occasional material handling activities. The patient was then evaluated for MMI and impairment on 12/3/2001 and he was awarded a 10% whole person impairment comprised of 16% upper extremity impairment. The work hardening program has been denied for payment based on medical necessity.

DISPUTED SERVICES

Work hardening, completed from October 1, 2001 to November 9, 2001.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

I can find no rationale for the requirement of a work hardening program for this patient in the supplied documentation. For all intents and purposes, this seems to have been a relatively straightforward rotator cuff (shoulder) injury, which underwent a successful arthroscopic repair. Established clinical guidelines state that an appropriate post-operative rehabilitation program should be instituted to improve mobility and strength deficits. I am unaware of any treatment guidelines that suggest work hardening be a required treatment progression in the absence of clinical indicators for work hardening.

Work hardening involves a multidisciplinary approach and is reserved typically for outliers of the normal patient population, such as poor responders to conventional treatment intervention, and with significant psychosocial issues and extensive absence from work. The only indication of psychosocial involvement comes from the opinion of the psychologist involved with ___ on the same day that the patient began his work hardening program. He simply states that the patient was an appropriate candidate for work hardening based on a psychological screening battery. These results are unfortunately not available for review.

All of the other indicators which would normally identify an appropriate candidate, namely the functional capacity evaluations, pain diagrams, reports of group psychotherapy session participation, indicate that there were no obvious psychosocial issues at play.

The FCE's showed patient participation to be valid, with only focal weakness to the right shoulder identified as abnormal (which would be expecting in such a postoperative patient). Poor/invalid participation with sub maximal effort or a mixed picture of effort/participation generally indicates the additional treatment requirements provided by work hardening. The numeric and visual analog scales and pain diagrams completed by the patient are appropriate to describe the symptoms, and do not suggest any symptom exaggeration. Both of the scales would ordinarily show exaggerated symptomatic

responses in order for work hardening to be appropriate. Normal psychological behavior is also confirmed in reports of the group psychotherapy session. From the outset patient participation was described as highly active and appropriate, which again tends to conflict with the assumption that the patient was in need of psychotherapy. Although there was an improvement in strength obtained by the work hardening program, the improvements were limited to increased strength in occasional material handling tasks.

According to the available documentation, this patient's problems were limited to strength and mobility loss, associated with his right shoulder injury. No other complicating factors or barriers to recovery are reported or recognized to suggest anything more than the requirements of a focused strengthening/rehabilitation program.

As an officer of ____, I certify that there is no known conflict between the reviewer, ____ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

____ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,