

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 \$650.00** 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 and functional capacity evaluations (FCE) were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these work hardening/FCE charges.

The above Findings and Decision are hereby issued this 11th day of October 2002.

Dee Z. Torres
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 12/3/01 through 1/18/02 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 per 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/dzt

Amended Independent Review Decision

September 24, 2002

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

MDR Tracking #: M5-02-2971-01
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.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed MD with a specialty and board certification in Physical Medicine and Rehabilitation. 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

___ is a 23-year-old female who, after being on hands and knees scrubbing the floor for a long time, stood up and felt low back pain. She reported to her supervisor and was told to keep working. She later caught her feet in a cable and she landed on the floor. She states she could not move afterward and felt pain and heat from the low back into her left leg. She was seen and evaluated, started on pain medication and returned to light duty. However, her symptoms became worse. Therapy was started. She was referred to ___, who did x-rays and a lumbar MRI identifying a herniated disc and degenerative changes in her low back. She had EMG studies that identified S1 radiculopathy by ___ and had identifiable weakness in her lower extremities.

After continued conservative treatment, she received epidural steroid injections. Her pain improved but she was in poor physical condition. Her employer let her go from her job. ___ felt her to be a candidate for a work hardening program. A pre-work hardening FCE discharge was done. She made satisfactory progression through her work hardening program.

___ noted that after the work hardening program she was able to return to gainful employment.

DISPUTED SERVICES

The carrier on this case has disputed Work Hardening and Functional Capacity Evaluations from 12/3/2001 to January 18, 2002.

DECISION

The reviewer disagrees with the prior adverse determination with regard to FCE's and Work Hardening.

BASIS FOR THE DECISION

From the information provided, the carrier's statement that the claimant had returned to work had no documentation to prove that the claimant had been back to work. The peer review doctor based his opinion on the same statement from the carrier with no supporting documents. The provider's response was that the claimant was not at work before starting the program. He states the forms were completed in error. The results of the work hardening program were effective and the patient was able to return to work. The claimant had sustained a back injury, was recovering, had radiculopathy and weakness. Work hardening is appropriate to attain a higher level of functioning after an injury of this nature. In my opinion, the carrier has not provided evidence to substantiate that the claimant had already been working.

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,