

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

**SOAH DOCKET NO. 453-03-2721.M5**

MDR Tracking Number: M5-02-3033-01

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 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. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

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 for these work hardening charges.

This Finding and Decision is hereby issued this 25<sup>th</sup> day of February 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer

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 9/10/01 through 9/28/01 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 25th day of February 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
RL/cl

December 31, 2002

REVISED

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

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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

\_\_\_ was injured on his job with \_\_\_ when he was stepping into a truck and felt a pop in his right knee. MRI was performed on the patient and it was determined that joint effusion indicated the need for arthroscopic surgery. That surgery was performed on February 8, 2001. He underwent rehabilitation for the injury and attempted to return to his job full duty even 6 months after the injury occurred. Lift testing was performed by the requestor on September 10, 2001 and found a general light category of lifting. After 15 days of work hardening, he had successfully moved into the medium duty category. Also, in the cardiovascular category, the provider measured that \_\_\_ was able to perform

15 lunges initially, and upon completion of the 15 days of work hardening he performed 150 lunges.

The carrier's representative is of the opinion that the work hardening was performed due to pain in the non-compensable knee and that the care was neither reasonable nor necessary due to that fact. Also, its' RME doctor, \_\_\_\_, did not believe the work hardening program was reasonable due to the fact that there was no evidence the patient was de-conditioned from the right knee injury. He also felt that the work hardening was not properly performed as an interdisciplinary program due to a lack necessity for a behavioral component.

### DISPUTED SERVICES

The carrier has denied the medical necessity of Work Hardening from September 10, 2001 to September 28, 2001.

### DECISION

The reviewer disagrees with the prior adverse determination.

### BASIS FOR THE DECISION

The patient was unable to perform his duties for his job. He was on a continual light duty for months after the surgical procedure, despite good care with active treatment under the direction of the treating doctor. The PT clinic was correctly following the guidelines in existence at the time this care was rendered and the care successfully met the standards of the Texas Labor Code by allowing for treatment to be performed that helped this patient return to his workplace.

The carrier's denial seems to be based on the contention of the RME doctor that the patient was not de-conditioned. It was well documented throughout this patient's file that he was on a reduced duty for months and that he was unable to perform his job adequately. Also, the notion that there was inadequate evidence of a psychological component is also invalid. Clearly, a patient with an 8 month history of work restriction and pain from an injury would likely have depression related to chronic pain. Also, such a patient as \_\_\_\_ was correctly assessed at having a good chance of success in this program. The fact that he was in a 6 week program for less than ½ the normal time of rehabilitation speaks volumes for not only the success of the program but also the motivation of the patient. I believe the care rendered was performed in a reasonable fashion and was done so only after all other avenues had failed to return this patient to a productive workplace.

\_\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_\_ has made no determinations regarding benefits available under the injured employee's policy.

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,