

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. 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 disputed work hardening program service was found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Finding and Decision is hereby issued this 18th day of February 2003.

Noel L. Beavers
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 8/7/01 through 9/7/01.

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 18th day of February 2003.

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

November 4, 2002

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

MDR Tracking #: M5 02 3164 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

The documentation states that ___ injured his low back repetitively loading and unloading bundles of copper weighing 100-200 pounds. The claimant worked for ___ for one year prior to this injury. He has had no other work related injuries before this one. The patient initially sought care with ___ and changed treating doctors to a chiropractic doctor. He underwent conservative care for his condition. The patient was diagnosed with a facet syndrome and Degenerative Disc Disease of the lumbar spine. The patient has undergone numerous FCE's and the employer had no light duty available for this patient. He underwent a Designated Doctor exam and was found not at MMI. ___ underwent facet blocks with some relief and a large amount of conservative treatment for

his condition. He underwent a second DD examination on May 7th, 2002 that gave him 11% impairment. The designated doctor stated that the patient had actually met MMI on September 12th, 2001. The claimant underwent work hardening at M.O.R.E. from August 7th 2001 to September 7, 2001 with _____. The documentation provided states the carrier is denying work hardening from August 7, 2001 to September 7, 2001 due to non-authorization and the treatment does not follow the TWCC guidelines. The carrier also states the treatment exceeds medically accepted utilization review.

DISPUTED SERVICES

The carrier denies medical necessity of work hardening.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

I disagree with the carrier's decision and the treatment would be considered reasonable and necessary up to the date of September 12, 2001. The employer did not have light duty available and from the designated doctor's report and from the other provider's treatment notes this would be considered a reasonable treatment. The carrier first denied based on non-authorization, which was not needed before January 1, 2002. The carrier then denied based on unnecessary treatment, which from the designated doctor's report, the patient was not at MMI until September 12, 2001.

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,