

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 IRO reviewed office visits, FCE, and work hardening program rendered from 10-24-01 to 2-27-02 that were denied based upon "U" and "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of 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 not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On February 11, 2003, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
9-13-01	95851	\$36.00	\$0.00	F	\$36.00	CPT Code description	The requestor did not submit medical records to support billed service. No reimbursement is recommended.
9-19-01	97265	\$43.00	\$0.00	F	\$43.00		
9-19-01	97250	\$43.00	\$0.00	F	\$43.00		
9-19-01	97122	\$35.00	\$0.00	F	\$35.00		
9-19-01	97110	\$105.00	\$0.00	F	\$35.00/15 min		
2-8-02	99213	\$48.00	\$0.00	L	\$48.00	Rule 133.3	TWCC records reveal that request to change treating doctor from ___ to ___ was granted on 2-27-02. The requestor did not submit medical records to support coordination of treatment per statute. No reimbursement is recommended.
TOTAL		\$310.00					The requestor is not entitled to reimbursement.

This Decision is hereby issued this 14th day of July 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

September 27, 2002

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

MDR Tracking #: M5 02 3223 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 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 while at work on ___. He injured his lumbar spine by doing repetitive lifting at work. A MRI of the lumbar spine was performed on 11-12-2001 and revealed a 3mm disc protrusion at L4-5 with a mass effect on the thecal sac. Range of motion testing revealed a change of range of motion from decreased lumbar range of motion on 8-22-2001 to normal range of motion on 9-13-2001. The patient was treated by the treating doctor, ___, with manual procedures, myofascial release, joint mobilization, manual traction and therapeutic exercise. A FCE was performed on 11-27-2001. The FCE showed the ability to perform light physical demand capacity. ___ underwent a work hardening program from 11-27-2001 to 1-8-2002. A second FCE was performed on 12-19-2001 and it revealed that ___ could function at a light medium capacity. This is not consistent with his job requirements of medium physical demand capacity. Work hardening continued and a 3rd FCE was performed on 1-25-2002. The FCE showed a slight decrease in static lifting abilities but his dynamic lifting abilities remained the same. It was noted in this FCE that excellent progress was made in the work hardening program and ___ is ready to return to work.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The main issue in this case is the question of medical necessity of work hardening. TWCC Guidelines and CARF guidelines have an extensive discussion regarding the difference between a work hardening candidate and a work conditioning candidate. The initial examination revealed decreased range of motion but by the examination performed on 9-13-2001 normal lumbar range of motion was noted. This is in contrast to the other examinations that noted that decreased range of motion was present. As stated in the Texas Medical Fee Guidelines:

“Entrance/admission criteria shall enable the program to admit: persons who are likely to benefit from the program; persons whose current levels of functioning due to illness or injury interferes with their ability to carry out specific tasks required in the workplace;

persons whose medical, psychological, or other conditions do not prohibit participation in the program; and persons who are capable of attaining specific employment upon completion of the program.”

Further criteria listed in the spinal treatment guidelines were used to determine medical necessity of work hardening:

“The tertiary phase of care is interdisciplinary, individualized, coordinated and intensive. It is designed for the injured employee who demonstrates physical and psychological changes consistent with a chronic condition. Psychosocial issues such as substance abuse, affective disorders or other psychological disorders may be present. There is documented inhibition of physical function evidenced by pain sensitivity, and nonorganic signs such as fear which produce a physical inhibition or limited response to reactivation treatment. This phase of care may also be indicated for the injured employee whose physical capacity to work still does not meet the current or expected job requirements after adequate treatment, thereby causing an inability to return to full duty. This situation would be evidenced by an excessive transition period of light duty or significant episodes of lost work due to a need for continued medical treatment. This phase of care is also indicated for those injured employees who cannot tolerate either initial or intermediate phases of care.”

___ benefited somewhat from the program as demonstrated in the last FCE that was performed. He progressed from a light physical demand capacity to a light medium physical demand capacity in only 6 weeks time. He was unable to perform at the physical demand level required by his employer prior to the entrance of the work hardening program. No psychological records were available other than ___ participated in a 1-hour “interdisciplinary” group psychological therapy. The person performing the final FCE stated that ___ was able to function at the physical demand capacity required by his employer. However, review of the material handling and non-material handling skills performed in the FCE are not meeting the minimum requirements for a medium physical demand capacity as required by his employer. The exam findings were contradictory and repetitive. ___ did not meet the minimum criteria for a work hardening candidate. Work hardening was therefore not necessary because the minimum entrance criterion was not met.

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,