

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 work hardening program and FCE's were found to be medically necessary. The office visits were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these FCE's and work hardening charges.

This Finding and Decision is hereby issued this 30<sup>th</sup> day of January 2003.

Carol R. Lawrence  
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 11/15/01 through 6/10/02 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 (Rule 133.307(j)(2)).

This Order is hereby issued this 30th day of January 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/cl

October 29, 2002

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

MDR Tracking #: M5 02 3279 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

This patient reported an injury to her hand and wrist while ripping boxes at work on \_\_\_\_\_. She presented to \_\_\_ on 6/19/01 and was diagnosed with left carpal tunnel syndrome. She was given medications and underwent physical therapy for several sessions until referred for surgical consultation with \_\_\_ on 7/3/01 and is found to have left median nerve entrapment and carpal tunnel syndrome. She began seeing a chiropractor for concurrent care on or about 7/13/01 but no change of treating doctor request is made until 1/23/02. No initial chiropractic treatment notes are provided for review. There is a report from \_\_\_ from 8/2/01 suggesting continued medications and therapy for carpal tunnel syndrome and wrist/hand bursitis. MRI is ordered by the chiropractor on 8/4/01

and reveals an 11 x 7x 5 mm synovial or ganglion cyst as the likely cause of carpal tunnel syndrome. EMG/NCV was performed on 8/24/01 and suggests median and ulnar nerve dysfunction with somato and dermosensory tests within normal limits. \_\_\_ performed a decompressive neuroplasty of the left median nerve and wrist on 8/27/01. The patient appeared to continue with post-operative chiropractic care and therapeutic modalities through October of 2001. No significant symptom or functional improvement appears to be documented through this period. Chiropractic treatment notes are submitted beginning 10/17/01 suggesting that the patient's pain levels are 4-6 (out of 10) and is progressing with mobilization, myofascial release and manual traction, exercise and trigger point therapy.

\_\_\_ appears to undergo concurrent work hardening with another chiropractor at the same facility from 11/27/01 to 1/18/02. Pre-authorization of a requested 2-week extension of work hardening appears to be granted by the carrier on 12/20/01 to be completed by 1/20/01. No specific goal oriented tasks or progressive functional achievements are noted with regard to return to gainful employment. Though the TWCC-73 RTW reports suggest that the injured worker may return to unrestricted employment as early as 11/20/01, there appears no evidence that the patient returned to work at that time or following the work hardening program on 1/18/02. Chiropractic notes and EOB's appear to indicate that the claimant continues with chiropractic treatments and passive modalities from January 2002 to June of 2002 with no specific progressive symptom or functional improvement noted. No RTW status is given. There was a Designated Doctor evaluation performed on 3/27/02 by \_\_\_ suggesting that no objective sensory or motor deficit of the left upper extremity is evident. The injured worker was placed at MMI as of 3/27/02 with 3% whole person impairment.

#### DISPUTED SERVICES

The carrier has denied the FCE, work hardening and office visits as medically unnecessary.

#### DECISION

The reviewer disagrees with the prior adverse determination regarding work hardening and FCE examinations. The reviewer agrees with the prior adverse determination for office visits containing chiropractic treatment and passive modalities after a date of 11/27/01.

#### BASIS FOR THE DECISION

Chiropractic daily office notes from 11/27/01 to 1/29/02 do suggest some subjective, palliative or symptomatic improvement, according to the treating doctor, as he states "...in my opinion." However, pain and functional levels remain essentially unchanged by report during this period. Chiropractic notes from 2/7/02 through 6/7/02 specifically indicate that this patient "has shown no improvement" with the ongoing care provided. Chiropractic notes of 2/7/02 indicate that the patient should be referred to a pain

management program "...since there is no other treatment we can offer to help this patient." Also, the work hardening program appears to utilize intersegmental traction, a "therapy table", to "decrease pain and increase range of motion of the spine and paraspinal regions." Clinical utility of this device in a work hardening setting is highly questionable, especially if the working diagnosis is carpal tunnel syndrome. Finally, psychological group therapy progress notes appear to incorporate "5 point auricular acupuncture" as well as videos and discussions on subjects such as "freezing of bodies and heads at death" and "cloning of organs for transplantation". The appropriateness of these items in a work hardening behavioral counseling program appears highly questionable.

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,