

MDR Tracking Number: M5-03-0202-01

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening was not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that work hardening fees were the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 10/23/01 to 12/7/01 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 19<sup>th</sup> day of December 2002.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

CRL/crl

#### NOTICE OF INDEPENDENT REVIEW DECISION

Date: November 25, 2002

Requester/ Respondent Address: Rosalinda Lopez, TWCC, 4000 S. IH 35, MS-48  
Austin, TX 78704-7491

RE:

MDR Tracking #: M5-03-0202-01  
IRO Certificate #: 5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic physician reviewer. The Chiropractic physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

### Clinical History

The claimant is a 45 year old, 6'0", 325 pound truck driver. Reportedly the claimant was "removing adhesive from his trailer, when he hit a "light spot", and fell into the floor from a standing position." The initial attending recommended a work hardening program. Two weeks into the program the claimant quit and changed treating physicians. He begins chiropractic care on 11/1/00. An MRI is remarkable for a "broad disc bulge at L3/4 and a minimal disc bulge at L4/5." Chiropractic care occurs from 11/1/00 through 7/31/01. On or about 9/1/01, the claimant begins a 6 week work conditioning program. Upon completion of the same, the attending initiates the disputed 6 week work hardening program. This case has undergone 3 formal peer reviews. Within the first review on 1/22/01, a doctor specifically recommends that the claimant begin a "return to work program immediately". Upon completion of this 4 week program the claimant would be graded at maximum medical improvement. The doctors second review on 11/5/01, is remarkable for the following comments and/or opinions. He concurs with a DD's opinion that the claimant was in need of a return to work program. However, the claimant should have completed only one or the other. He states "pursuant to Medical Fee Guidelines adopted in April 1996, work conditioning and work hardening are both return to work programs." "The claimant should have had a proper screening criteria before being admitted to either program and should complete only one of these programs before obtaining maximum medical improvement and a return to work status." Lastly he states that "work conditioning was appropriate, I would approve work hardening at this time."

### Requested Service(s)

Work hardening, dates of service 10/23/01 through 12/7/01

### Decision

I agree with the insurance carrier that the work hardening services in dispute were not medically necessary or indicated.

### Rationale/Basis for Decision

The doctors opinion and position on this matter is accurate. I would concur to his reference of the Medical Fee Guidelines. An initial thorough evaluation should be utilized to determine whether an injured employee would benefit more from work conditioning or work hardening. The evaluation should include a mental health screening. If the injured employee exhibits psychological factors that represent barriers to his return to work, then the group counseling component of a work hardening program would be more appropriate. If no such barriers are noted, then the work conditioning program is indicated. I find no such mental health screening in this case, that would lead me to believe that this claimant was in need of counseling. Therefore, according to the aforementioned Texas Medical Fee Guidelines and accepted Spine Treatment Guidelines, the work hardening program was not indicated.

There are additional inconsistencies with this case. First, I am not certain as to why the chiropractic physician chose to delay active care for 8-9 months. Secondly, the claimant's range of motion studies are inconsistent. On 11/30/01, during an functional capacity exam performed by the attending, the claimant exhibits normal range of motion. Nevertheless, an Oswestry pain scale reveals "severe disability". The examiner feels that the claimant will require an additional 2-3 weeks to complete work hardening. During an independent medical exam on 12/4/01, the claimant's range of motion is markedly limited, leading to a higher impairment rating. On 12/7/01, the claimant "successfully completes" the work hardening program. These inconsistencies tend to implicate inappropriate pain behaviors.

This decision by the IRO is deemed to be a TWCC decision and order.