

MDR Tracking Number: M5-04-0142-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General 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 dispute was received on September 10, 2003.

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(r)(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 was found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the work hardening charges.

This Findings and Decision is hereby issued this 17th day of November 2003.

Margaret Q. Ojeda
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 9/10/02 through 9/24/02 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 17th day of November 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/mqo

November 13, 2003

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.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor board certified and specialized in Physical Medicine and Rehabilitation. The reviewer is on the TWCC Approved Doctor List (ADL). 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

___ is a gentleman of approximately 52 years of age who injured his back on ___. He had known prior problems/lumbar degenerative changes, and his lumbar imaging revealed spinal bony hypertrophy and stenosis, discopathy, degenerative changes, some degenerative spondylolisthesis, disc bulging and neural foramina narrowing. He had back pain in the right lower extremity.

This patient underwent a physical therapy/medication treatment and eventually had three epidural steroid injections by ___ in the summer of 2002.

In August of 2002, ___ recommended a further physical therapy/back rehab program for about eight weeks for this patient's injury involving the low back with right lower extremity symptoms. On 9/9/02 he underwent the required initial FCE for a work hardening program.

He then had, beginning 9/10/02, eight sessions of a work hardening-type program before the program was eventually terminated because of evidenced small likelihood of further progress.

DISPUTED SERVICES

Under dispute is the medical necessity of rehabilitation/work hardening.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The peer review of 8/21/02 from ___ was particularly reviewed, as well as the provider responses. However, in this case the reviewer was in agreement with the information summarized by the provider. It was felt that this patient did, in several different aspects, receive benefit from at least the attempted program.

The report from ___ sufficiently points out these multiple aspects:

- The FCE performed definitely revealed that the patient was unable at that time to return to his full-time duties.
- This patient appeared to have much frustration/anxiety/confusion on these issues. He was able to work through a significant amount of these, including those vocational issues, with the interdisciplinary program and staff – even though the program was properly terminated early when the patient reached a point of no likely added benefit or progress.
- The program indeed did address physical, functional, vocational and behavioral needs which were rather crucial in this case, and likely would not have been sufficiently addressed/clarified otherwise.
- The patient apparently felt himself at that point where he might return to work in a modified position as long as possible, and then consider early retirement.

___ did receive significant benefits. It was, of course, understood that with his long-term anatomic/degenerative changes the program was not going to be curative, but it was likely erroneous to assume that this patient would receive no significant benefit. The patient did receive significant benefit in this particular case/situation.

The reviewer finds that the treatment period from 9/9/02 through 9/24/02 did consist of medically reasonable and justified intradisciplinary treatment in this case.

___ 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,