

v THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-04-2031.M5

MDR Tracking Number: M5-04-0315-01

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 29, 2003.

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 fees were the only fees involved in the medical dispute to be resolved. As the work hardening treatment was not found to be medically necessary, reimbursement for dates of service from 3/12/03 through 3/27/03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 2nd day of December 2003.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division
MQO/mqo

NOTICE OF INDEPENDENT REVIEW DECISION

Date: December 1, 2003

RE: MDR Tracking #: M5-04-0315-01
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 who has a temporary ADL exemption. The Chiropractor 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

It appears the claimant suffered alleged left upper extremity injury from pulling a pallet from an overhead position. Some of the documentation revealed the pallet may have struck the claimant's left hand. The initial diagnoses were left wrist, elbow and shoulder sprain/strain. The claimant reported some neck pain as well; however, this did not appear to be a significant factor or symptom. The claimant underwent surgery of her left wrist on 5/24/02 which mainly consisted of a ganglion cyst excision along with arthrotomy of a bone cyst with a bone graft procedure. It appears the claimant continued to work with restrictions from the date of injury through the 5/24/02 surgery and then she was put back to work with some restrictions as of 7/24/02 and she was noted to be able to continue to work through at least December 2002 or January 2003 before presenting for chiropractic treatment. The claimant has been found to be at maximum medical improvement on 2 occasions by 2 separate evaluating physicians. The designated doctor examination report from ___ of 1/30/03 was reviewed at which time the claimant was found to be at maximum medical improvement with 2% whole body impairment rating. The claimant's examination findings at that time were essentially normal with only mild decreases in left wrist range of motion. The claimant's strength and sensation were reportedly normal. The claimant had good grip strength. The claimant had no evidence of carpal tunnel syndrome or cubital tunnel syndrome and she had no evidence of deQuervain's disease. The claimant was employed as a meat packer prior to her injury. Of interest was a note dated 3/27/03 from the chiropractic clinic that stated that she was "receiving a loan through the clinic" due to financial difficulties. I believe this requires further investigation. An functional capacity exam report of 2/7/03 was reviewed and revealed that the claimant did not even meet the maximum sedentary duty qualifications. I did review the functional capacity exam results and the claimant's efforts were not consistent with her ability to walk across the room, get into or out of a vehicle or exit the examining room door. The 2/28/03 functional capacity exam revealed the claimant was finally able to meet the maximum sedentary duty requirement, whereas her job required her to function at the medium duty level. By 3/19/03 the claimant was still only able to meet the sedentary level requirement. I really saw no evidence of significant change with the chiropractic treatment or work hardening program.

Requested Service(s)

The medical necessity of the outpatient services including work hardening which were rendered from 3/12/03 through 3/27/03. The only disputed dates of service appear to be 3/12/03, 3/26/03 and 3/27/03.

Decision

I agree with the insurance carrier that the services in dispute were not medically necessary.

Rationale/Basis for Decision

The claimant was found to be at maximum medical improvement twice with 0 to minimal amounts of impairment before ever even presenting for chiropractic treatment. The documentation suggested that on many occasions the subjective complaints far outweighed the objective findings. There was never any clinical evidence of carpal tunnel syndrome, cubital tunnel syndrome, or deQuervain's disease. The initial functional capacity exam report from the chiropractic office of 2/7/03 revealed the claimant was not even capable of meeting the maximum level of sedentary function. My review of that functional capacity exam revealed the claimant would not have been able to walk through the examining room door or exit the examining room facility. The claimant has demonstrated the ability to work from the date of injury through the 5/24/02 surgery and then she was again able to work from July 2002 through December 2002 or January 2003 at which time the claimant was removed from work by her treating chiropractor. Chiropractic care would not be considered reasonable or medically necessary for what was probably a non-injury related ganglion cyst problem and other congenital anomalies were present which would not be considered injury related. A work hardening program would have been considered overkill for the left wrist injury. The alleged overall poor condition of the claimant would not be related to the injury as the injury was mainly limited to the left non-dominant wrist. This would not cause the entire body to become deconditioned such that an expensive non-cost effective physician directed work hardening program was necessary. The chiropractic documentation and subsequent re-evaluations in the form of functional capacity exams revealed minimal changes in the claimant's condition despite treatment, and as of 3/19/03 the claimant was still only able to barely function at the sedentary level which taken into consideration would be suspicious. It is my opinion that the work itself could have represented a work hardening program and that the work hardening program was excessive given the area of complaint and overall objective findings. I fail to see what the chiropractic care contributed to the claimant's overall status. The claimant was also documented to be receiving financial assistance from the chiropractic clinic. This was documented on the 3/27/03 staffing note form from ____.