

MDR Tracking Number: M5-04-0807-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11-14-03.

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 and conditioning and each additional hour were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and decision is hereby issued this 2nd day of February 2004.

Debra L. Hewitt
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 12-23-02 through 01-10-03 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 2nd day of February 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

January 30, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION
Corrected Letter**

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___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in physical medicine and rehabilitation. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 50 year-old male who sustained a work-related injury on ___. The patient reported that while at work he was drilling into a metal frame when the drill bit broke and he slammed face first into the metal frame. The patient reported that when this happened he injured his neck and sustained a laceration over his left eye and a concussion. The patient has undergone X-Rays and a MRI. Diagnoses for this patient have included IVD cervical intervertebral disc without myelopathy and myalgia and myositis, unspecified. Treatment for this patient's condition has included adjustment, ice/heat, electrical stimulation, light stretching and exercising, and oral medications. The patient has also completed a work hardening/conditioning program.

Requested Services

Work hardening/conditioning and each additional hour from 12/23/02 through 1/10/03.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

Rationale/Basis for Decision

The ___ physician reviewer noted that this case concerns a 50 year-old male who sustained a work related injury to the left side of his neck and left shoulder. The ___ physician reviewer indicated that patient was treated with a course of rehabilitation but was found to be at light physical demand level and unable to return to work afterwards. The ___ physician reviewer noted that the patient continued rehabilitation and was then found to be at light medium demand level. The ___ physician reviewer indicated that the patient was then referred to a work hardening program from 12/23/02 through 1/10/03 and the patient was then reported to be at a medium demand level. The ___ physician reviewer explained that a work hardening program is designed to address psychological/behavioral needs as well as being tailored for specific job related activities. The ___ physician reviewer also explained that a work hardening program is medically necessary to attempt improving the patient's ability to return to work after unsuccessful traditional rehabilitation programs. Therefore, the ___ physician consultant concluded that the work hardening/conditioning and each additional hour from 12/23/02 through 1/10/03 were medically necessary to treat this patient's condition.

Sincerely,