

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 November 17, 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/conditioning 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 treatment listed above was not found to be medically necessary, reimbursement for dates of service from 01-21-03 to 02-14-03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 30th day of January 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division
PR/pr

NOTICE OF INDEPENDENT REVIEW DECISION

Date: January 26, 2004

RE: MDR Tracking #: M5-04-0824-01
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 an Orthopedic Surgeon reviewer (who is board certified in Orthopedic Surgery) who has an ADL certification. The 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 has a history of chronic neck and shoulder pain allegedly related to a compensable work injury that occurred on or about _____. Documentation indicates a repetitive use injury (RUI) carrying trays while employed as a waitress. The claimant underwent 2 level cervical fusion on 6/13/02.

Requested Service(s)

Work hardening/conditioning

Decision

I agree with the insurance carrier that the requested intervention is not medically necessary.

Rationale/Basis for Decision

Generally prior to participating in a work hardening program, a candidate undergoes a thorough FCE. The FCE determines pre-work hardening program functional capacity level as well as determining physical demand classification as well as potential candidate's ability to participate in a meaningful way in the work hardening program. Documentation clearly indicates the claimant had significant pain issues and behavioral issues with poly drug abuse and ongoing treatment of depression. It is not likely the claimant would be able to participate in a reasonable way with a structured work hardening program. Documentation supports the claimant was unable to participate on a regular basis in a work hardening program due to pain, drug abuse and depression. The claimant was administered primarily physiotherapy during work hardening sessions. There is no clearly documented clinical rationale explaining why a home exercise program emphasizing ice/heat modalities and therapeutic exercise would be any less effective than ongoing physiotherapy in this clinical setting.