

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. This dispute was received on 12-23-03.

The IRO reviewed work hardening program rendered from 6-16-03 through 6-30-03 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On March 3, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

No EOB: Neither party in the dispute submitted EOBs for some of the disputed services identified above. Since the insurance carrier did not raise the issue in their response that they had not had the opportunity to audit these bills and did not submit copies of the EOBs, the Medical Review Division will review these services per *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
6-2-03 6-3-03 7-1-03 7-2-03 7-3-03 7-10-03 7-14-03 7-15-03 7-16-03 7-17-03	97545WHAP	\$128.00	\$0.00	No EOB	\$64.00 / hr X 2 = \$128.00	Medicine GR (II)(E)	MAR reimbursement of \$128.00 X 10 dates = \$1280.00 is recommended.
6-2-03 6-3-03 7-1-03 7-2-03 7-3-03 7-10-03	97546WHAP (2)	\$128.00	\$0.00	No EOB	\$64.00 / hr X 2 = \$128.00	Medicine GR (II)(E)	MAR reimbursement of \$128.00 X 10 dates = \$1280.00 is recommended.

7-14-03 7-15-03 7-16-03 7-17-03							
6-19-03	97545WHAP	\$128.00	\$64.00	H	\$64.00 / hr X 2 = \$128.00	Medicine GR (II)(E)	Final audit findings were not submitted; therefore, additional reimbursement of \$64.00 is recommended.
6-19-03	97546WHAP (2)	\$128.00	\$64.00	H	\$64.00 / hr X 2 = \$128.00	Medicine GR (II)(E)	Final audit findings were not submitted; therefore, additional reimbursement of \$64.00 is recommended.
TOTAL							The requestor is entitled to reimbursement of \$2688.00.

IV. DECISION & ORDER

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor **is** entitled to reimbursement for CPT code(s) 97545WHAP and 97546WHAP in the amount of **\$2688.00**. Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Division hereby ORDERS the Respondent to remit **\$2688.00** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

The above Findings, Decision and Order are hereby issued this 7th day of September 2004.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

Date: March 11, 2004

MDR Tracking #: M5-04-1208-01
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 reviewer 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

It appears the claimant was involved in a work related motor vehicle accident in which the company truck he was driving at the time was struck from the right side in a T-bone type manner. This reportedly caused his vehicle to strike a nearby utility pole. The claimant initiated chiropractic care on or about 3/18/03. A chiropractic peer review was enclosed for review as well as multiple work hardening notes and daily chiropractic notes. The claimant saw ___ for second opinion on 3/31/03 and was diagnosed mainly with sprain/strain injuries. The claimant did report some occasional right arm and right leg radicular symptoms. A lumbar spine MRI report revealed normal findings as reported. The claimant reportedly weighed about 230 pounds and did have 3 children at home. The claimant was listed to be only about 23 years of age and he did smoke about 10 cigarettes per day. There was no other significant past medical history. An FCE of 4/29/03 revealed the claimant to be functioning at the sedentary level and he was functioning at the light duty level with respect to his cardiovascular endurance. The claimant's grip strength was weak on the left compared to the right. The claimant demonstrated a very slow pace for possible fear of re-injury and he did demonstrate some inconsistent efforts. The claimant reportedly had a severe level of self perceived disability and a moderate level of depression and anxiety. At any rate, the claimant did undergo a short duration of active care and stretching, and then was transitioned into a 4 hour per day work hardening program for about 6 weeks. An FCE of 7/15/03 revealed the claimant to have dramatically improved from the sedentary level up to the medium to heavy duty level. The claimant is required to move heavy furniture and appliances, and was reportedly required by his employer to function at the very heavy duty level. The claimant was reportedly returned to work after discharge from the work hardening program and was able to maintain employment at his pre-injury level status.

Requested Service(s)

The medical necessity of the outpatient services to include work hardening program from 6/16/03 through 6/30/03.

Decision

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

Rationale/Basis for Decision

While the work hardening program as documented was retrospectively considered to be quite effective at increasing the claimant's work capacity from the sedentary to the medium to heavy duty level, it was clear from the documentation that the claimant could have benefitted just as well with a 2-3 work conditioning program instead of a 4 hour work hardening program to include nutrition and group counseling. Although the claimant filled out some questionnaires stating he was anxious and had high levels of self perceived disability on the 4/29/03 FCE, this alone would be insufficient reason to move him into a more multidisciplinary work hardening program from a relatively short trial of active care. A certain amount of anxiety and depression and self perceived disability is to be expected following injury; however, prior to the work hardening program the claimant had not been involved in an active rehabilitation program long enough to see if some of these psychological barriers could be decreased through a regular conditioning program. It appears the claimant demonstrated the most benefit from the active

strengthening which took place. I am certainly not stating that the services were not effective, I am simply stating that the proper sequence of treatment did not take place in that the claimant did not undergo a sufficient trial of active rehabilitation of a less intensive level.