

MDR Tracking Number: M5-04-1261-01

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 1-8-04.

The Medical Review 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 (initial hour), work hardening/conditioning (each additional hour), and the functional capacity evaluation were 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 Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 6/16/03 through 8/5/03 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 16th day of March 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division
RLC/rlc

March 11, 2004

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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 Doctor of Chiropractic. 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 47-year-old man who injured his neck on ___ while working as a correctional officer for the ___. The records state that a fairly aggressive and somewhat invasive medical treatment ensued until ___ sought a change of treating doctors to try chiropractic.

DISPUTED SERVICES

Under dispute is the medical necessity of work hardening/conditioning (initial), work hardening/conditioning (each additional hour), and functional capacity evaluation.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The records submitted for review do not include the results of the FCE for date of service 8/5/03, so its medical necessity cannot be supported. Insofar as the work hardening services are concerned, ___, the designated doctor assigned by TWCC in this case, saw ___ on 3/6/03. Following that exam, it was ___ opinion that ___ was not at MMI, but he projected him to reach it by 5/31/03, a date well before these dates of service that are in question even began.

Furthermore, in ___ report he stated that this patient “would like to go back to work after the treatment on his left side,” which is not a specific referral to a work hardening program as ___ represents in his cover letter.

Finally, after carefully reviewing the daily progress notes for the work hardening sessions, no significant improvement occurred in ___ condition as a result of the 8-week program. Texas Labor Code 408.021 states the following:

An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to health care that:

- 1) cures or relieves the effects naturally resulting from the compensable injury;
- 2) promotes recovery; or
- 3) enhances the ability of the employee to return to or retain employment.

Since this did not occur, these services are deemed medically unnecessary.

___ 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 ___, Inc, dba ___, 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,