

MDR Tracking Number: M5-04-1689-01

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 February 10, 2004

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. 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 was the only issue** to be resolved. The 97750-FC Functional Capacity Evaluation on 04-29-03 was found to be medically necessary. The 97545-WH-AP Work hardening/conditioning-initial, 97546-WH-AP Work hardening/conditioning-each addtl hour for 04-18-03 through 06-13-03 and the 97750-FC Functional Capacity Evaluation for 05-27-03 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 date of service 04-29-03 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 14<sup>th</sup> day of April 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PR/pr

April 5, 2004  
IRO Certificate # 5259

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by \_\_\_ or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_.

CLINICAL HISTORY

Patient received physical medicine treatments after a repetitive motion injury on \_\_\_.

REQUESTED SERVICE (S)

97545-WH-AP Work hardening/conditioning-initial, 97546- WH-AP Work hardening/conditioning-each add hour, 97750-FC – Functional Capacity Evaluations from 04/18/03 to 06/13/03.

DECISION

The 97750-FC Functional Capacity Evaluation 04/29/03 is approved. All other treatments and examinations for the specified dates are denied.

RATIONALE/BASIS FOR DECISION

Based on the injury the patient sustained, it is reasonable to conclude that a functional capacity evaluation would be performed 6 weeks after treatment began. However, it is perplexing why the treating doctor would suddenly shift the patient from therapeutic procedures (that had not yet provided benefit) to a much more aggressive work hardening program a mere 23 days after the initiation of treatment. Since the injured mesenchymal connective tissue would not have had sufficient time (6 weeks) to repair/regenerate (confirmed by the doctor's own reference on page 12 in the 03/26/04 letter) and since the records fail to document that a sufficient reduction in inflammation had occurred, the more intensive work hardening regimen that began on 04/18/03 was medically unnecessary and possibly contraindicated. Moreover, the treatment records fail to document that this patient was a candidate for work hardening at any time. In fact, when the work hardening program was performed, it failed to materially decrease the patient's symptoms and did not offer any significant benefit.