

MDR Tracking Number: M5-04-1931-01

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, 133.307 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 February 26, 2004.

The IRO reviewed the Work Hardening Program (97545/97546-WH-AP) rendered from 03/04/03 through 04/11/03 that was denied based upon "U" and "V".

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 \$460.00** 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 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 May 26, 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.

- CPT Code 97545-WH-AP (2 hrs) and 97546-WH-AP (5 hrs) for date of service 03/14/03 denied as "A". Per Commission Rule 134.600(h)(9) if the facility is CARF accredited, the Work Hardening program does not require preauthorization. Therefore, reimbursement in the amount of \$448.00 (\$64.00 x 7) is recommended.
- CPT Code 97545-WH-AP (2 hrs.) for date of service 03/27/03 denied as "3-Reviewed: 05/09/03 / original control #: 10031266220000 Original Total recommended amt: \$0.00 / Invoice #:" Per the 1996 Medical Fee Guideline, Medicine Ground Rule (II)(E)(5) reimbursement in the amount of \$128.00 (\$64.00 x 2) is recommended.

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 03/04/03 through 04/11/03 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 Decision & Order is hereby issued this 30<sup>th</sup> day of September 2004.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division  
MF/mf

Enclosure: IRO Decision

May 14, 2004

### NOTICE OF INDEPENDENT REVIEW DECISION

**RE: MDR Tracking #: M5-04-1931-01**  
**TWCC #:**  
**Injured Employee:**  
**Requestor:**  
**Respondent:**  
**----- Case #:**

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ----- 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 chiropractor on the ----- external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor 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 ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

#### Clinical History

This case concerns a 29 year-old male who sustained a work related injury on ----- . The patient reported that while at work he injured his right knee when he hit it against a forklift. The patient sought treatment with the treating chiropractor on 8/5/02 and underwent x-rays of the right knee that indicated essentially unremarkable study of the right knee. The patient was diagnosed with a right knee strain with possible internal derangement of the right knee joint. On 8/8/02 the

patient was diagnosed with contusions to the right knee, began treatment with physical therapy and medications, and was referred for diagnostic testing. A MRI of the right knee performed on 8/20/02 showed a grade I tear of the posterior horn of the medical meniscus with mild intracapsular swelling, and intact ligamentous restraints of the knee. The patient returned to work and continued conservative care. The patient was recommended for right knee surgery and was taken off work on 1/6/03 pending surgery scheduled for 1/21/03. On 1/21/03 the patient underwent a two compartment synovectomy, resection of tear of the medical meniscus, and resection of plica for the diagnoses of tear of posterior horn of the medial meniscus, small tear of the anterior horn of the medial meniscus, two compartment villonodular synovitis, and plica. Postoperatively the patient was referred for physical therapy and participated in a work hardening program.

### Requested Services

Work hardening program from 3/4/03 through 4/11/03.

### Documents and/or information used by the reviewer to reach a decision:

#### *Documents Submitted by Requestor:*

1. Response to request from IRO for records 4/12/04
2. Office note 8/8/02
3. X-ray report 8/5/02
4. MRI report 8/20/02
5. Operative note 1/21/03

#### *Documents Submitted by Respondent:*

1. Work Hardening notes 3/4/03 – 4/11/03

### 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 29 year-old male who sustained a work related injury to right knee on -----. The ----- chiropractor reviewer also noted that the diagnoses for this patient have included right knee strain with possible internal derangement of the right knee joint, contusions of the right knee and medical meniscus tear. The ----- chiropractor reviewer further noted that the patient had undergone a two-compartment synovectomy, resection of tear of the medial meniscus, and resection of plica. The ----- chiropractor reviewer explained that work hardening after a course of postoperative physical therapy was medically necessary to treat this patient's condition. The ----- chiropractor reviewer also explained that this patient's injury was extensive and required a work hardening program. Therefore, the ----- chiropractor consultant concluded that the work hardening program from 3/4/03 through 4/11/03 was medically necessary to treat this patient's condition.

Sincerely,

State Appeals Department