

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 December 16, 2003.

The IRO reviewed work hardening and a functional capacity evaluation that was denied based upon "V".

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.

The functional capacity evaluation (97750-FC) for date of service 03/06/03 **was** found to be medically necessary. The work hardening program (97545-WH-AP and 97546-WH-AP) for dates of service 01/23/03 through 01/28/03, 02/04/03 through 02/10/03, and 02/12/03 through 02/27/03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the work hardening program and the functional capacity evaluation.

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.

On July 6, 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 (8 hrs total) for dates of service 01/29/03 through 02/03/03 and 02/11/03 denied as "F, 320 – Non-accredited interdisciplinary program..." Per the 1996 Medical Fee Guideline, Medicine Ground Rule (II)(C) the requestor has submitted convincing evidence in the form of a letter from CCAC confirming the healthcare provider is CARF accredited; therefore, per the 1996 Medical Fee Guideline (II)(E)(5) reimbursement in the amount of \$512.00 (\$64.00 x 8) is recommended.
- CPT code 97546-WH-AP (20 hrs total) for dates of service 01/29/03 through 02/03/03 and 02/11/03 denied as "F, 320 – Non-accredited interdisciplinary program..." Per the 1996 Medical Fee Guideline,

Medicine Ground Rule (II)(C) the requestor has submitted convincing evidence in the form of a letter from CCAC confirming the healthcare provider is CARF accredited; therefore, per the 1996 Medical Fee Guideline (II)(E)(5) reimbursement in the amount of \$1,280.00 (\$64.00 x 20) 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 01/29/03 through 02/03/03, 02/11/03, and 03/06/03 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 4th day of November 2004

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf
Enclosure: IRO decision

June 3, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-2276-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear Ms. Lopez:

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant

medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: office notes, daily progress notes, physical therapy notes, FCE, nerve conduction study and radiology report.

Information provided by Respondent: designated doctor exam.

Clinical History:

The claimant was initially injured on ___ in a work-related accident; resulting in back pain. The records do not provide what treatment was rendered from August 18, 2002 until September 9, 2002. There is an initial report to indicate the patient first consulted the doctor's office on September 10, 2002. An initial evaluation was performed with the request for appropriate diagnostic testing, as well as referral for medication management.

Lumbar MRI revealed disc involvement. Electrodiagnostic testing performed on October of 2002 revealed the possibility of some L5 irritation. However, additional diagnostic testing in the form of bilateral lower extremity EMGs done in December was interpreted as being essentially normal. Initial FCE performed on January 15, 2003 indicated mild positive findings, which document the need for additional care.

In addition to disc problems, MRI also revealed degenerative disc disease at L5, which corresponds with the history of the patient having previous on the job injury and lumbar surgery in 1994. Given the fact that this patient had a previous back injury, which required surgery, as well as an underlying degenerative condition, this type of mechanism could produce her injuries with resultant symptomatology, which she describes throughout the records. Throughout this time, the patient was receiving active rehabilitation in an attempt to resolve this patient's injuries.

Disputed Services:

Work hardening/conditioning-initial (97545-WH-AP), work hardening/conditioning-each additional hour (97546-WH-AP) and FCE during the period of 01/23/03 through 03/06/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier. The work hardening/conditioning program in dispute as stated above was not medically necessary. The functional capacity evaluation was medically necessary in this case.

Rationale:

The patient's initial functional capacity evaluation was performed on January 15, 2003. There was sufficient documentation to warrant additional treatment; however, not to the intensity and magnitude this patient received. There was no clinical documentation or justification for this patient to receive a multi-disciplinary work-hardening program. This patient should have been released to return to work with restrictions as outlined in the initial functional capacity evaluation. In conjunction, she could have progressed to a work-conditioning program of two hours per day five days per week in order to strengthen and stabilize any de-conditioned musculature that may have been obtained either during her on the job injury or as a result of the fact that she had been off of work for several months prior to her initial functional capacity evaluation. Any psychologic component that was present could be adequately addressed through individual counseling sessions without the need for a group setting that is provided for in a work-hardening program.

The records also indicate the patient was evaluated by the designated doctor on 12/18/02 and was placed at maximum medical improvement with a 5% whole person impairment. National Treatment Guidelines allow for treatment for this type of injury. However, not to the intensity, magnitude, and frequency this patient has received.

In conclusion, there is no clinical documentation or justification for this patient to participate in a multi-disciplinary work-hardening program. She could have been returned to restricted duty, 4-6 hours per day, in addition to two hours per day of work-conditioning program to not only strengthen and stabilize her weaknesses, but also she should have received proper instruction in a home exercise program that she could utilize outside her doctor's office or rehabilitation clinic.

If for some reason her employer would not accept her back on restricted duty, then she could have undergone therapeutic exercise in conjunction with work-conditioning program to strengthen and stabilize her injured areas to the point where she can return to her former occupation on full duty as well as continue her strengthening program at home or at a workout facility of her choice. Her work hardening program from 1/23/03 through 3/6/03 was not, in fact, reasonable, usual, customary, or medically necessary for the treatment of this patient's on the job injury. A functional capacity evaluation on 3/6/03 was medically necessary to determine the patient's current condition.

Sincerely,