

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 4-16-04.

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 physical performance test, work hardening and work hardening each additional hour from 6-23-03 through 7-10-03 were not medically necessary. Consequently, the requestor is not owed a refund of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute 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 August 12, 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.

Regarding CPT Code 97750-FC for date of service 7-14-03: Rule 134-202 (e)(4) states:  
(4) A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the commission shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using the "Physical performance test or measurement..." CPT code with modifier "FC." FCEs shall be reimbursed in accordance with subsection (c)(1). Reimbursement shall be for up to a maximum of four hours for the initial test or for a commission ordered test; a maximum of two hours for an interim test; and, a maximum of three hours for the discharge test, unless it is the initial test. Information was submitted which reveals that this is a discharge FCE test. The requester is billing for a 2 hour FCE or \$200. The carrier has previously paid \$100. Recommend additional reimbursement of \$100.00.

### **ORDER.**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003; in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 6-23-03 through 7-14-03 in this dispute.

This Decision and Order is hereby issued this 30<sup>th</sup> day of September 2004.

Donna Auby

Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision

## NOTICE OF INDEPENDENT REVIEW DECISION

July 14, 2004

**AMENDED LETTER 08/17/04**

Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

RE: Injured Worker:  
MDR Tracking #: M5-04-2563-01  
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) 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 TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. TMF's health care professional 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 TMF 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

This patient sustained a work-related injury on \_\_\_ when he was lifting and twisting his body when throwing a rafter. The patient was evaluated by a chiropractor and described as having neck, mid back and low back pain radiating into his left leg with numbness. MRIs of the cervical and lumbar spines were performed on 04/08/03. The patient's treatment included physical performance testing and work hardening.

### Requested Service(s)

Physical performance test, work hardening and work hardening each additional hour billed from 06/23/03 through 07/10/03.

### Decision

It is determined that the physical performance test, work hardening and work hardening each additional hour billed from 06/23/03 through 07/10/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The medical record documentation details the delivery of the work hardening program. However, the documentation fails to adequately establish the patient as a viable candidate for such a highly specialized and multi-disciplinary program as work hardening entails as opposed to an active and aggressive supervised rehabilitation. Specifically, the medical records failed to adequately establish this patient's psychological deficit that required this high level of intervention. According to the daily treatment records kept during the work hardening program, the patient's pain level at the outset (06/02/03) was seven out of ten, and on the last recorded visit (07/01/03), it was only reduced to six out of ten. This reflects insignificant progress considering such an extensive therapeutic program. Therefore, the physical performance test, work hardening and work hardening each additional hour billed from 06/23/03 through 07/10/03 were not medically necessary to treat this patient's condition.

Sincerely,

Gordon B. Strom, Jr., MD  
Director of Medical Assessment

GBS:vn

Attachment

Information Submitted to TMF for TWCC Review

**Patient Name:**

**TWCC ID #: M5-04-2563-01**

**Information Submitted by Requestor:**

- MDR Request
- Letter of Medical Necessity dated 12/10/03
- Table of Disputed Services
- Claim forms and EOBs
- WC/WH daily notes
- FCE reports
- Chiropractic initial report
- X-ray reports of cervical and thoracic spine
- MRI reports of cervical and lumbar spine
- Electrodiagnostic testing results
- Chiropractic referral forms
- Occupational Medicine evaluation
- Daily progress notes

**Information Submitted by Respondent:**

None