

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 4-19-04.

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 program (initial and additional hours) from 10/06/03 through 10/24/03 was 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, the request for reimbursement for dates of service 10/06/03 through 10/24/03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 23<sup>rd</sup> day of June 2004.

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

**NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** June 15, 2004

**MDR Tracking #:** M5-04- 2579- 01

**IRO Certificate #:** 5242

\_\_\_ 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 \_\_\_ 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 proposed 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 Chiropractic reviewer who has an ADL certification. The reviewer 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 for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Submitted by Requester:**

- Medical records of \_\_\_ dated 10/6/03
- Medical records of \_\_\_ dated 9/5/03 and 10/3/03
- Medical records of \_\_\_ dates inclusive 9/8/03 through 12/1/03
- Medical documentation from \_\_\_ dated 4/15/04

**Submitted by Respondent:**

- MRI of the right and left wrist dated 6/6/03
- Medical records of \_\_\_ dated 6/28/03
- Medical records of \_\_\_ dated 7/14/03
- Medical records of \_\_\_ dated 8/28/03
- Medical records of \_\_\_ dated 9/5/03 and 10/3/03
- Medical records of \_\_\_ dates inclusive 9/8/03 through 10/24/03
- Medical records of \_\_\_ and \_\_\_ dated 10/3/03
- Medical records of \_\_\_ dated 1/21/04
- Medical records of \_\_\_ dated 6/8/04

**Clinical History**

The claimant is a 30 year old, left hand dominant, female receptionist, employed by \_\_\_\_. On 5/5/03 the claimant alleges bilateral wrist and hand pain, secondary to repetitive strain. She subsequently presents to the office of \_\_\_ for conservative care. The attending's impressions include: carpal tunnel syndrome and tenosynovitis, left greater than right. Initial passive care was followed by active rehabilitation and eventually a return to work, conditioning program. This phase of care was completed prior to 10/2/03. Throughout this phase of care, the claimant maintained a 4 hour per day work schedule. Upon completion of the work conditioning program, the claimant was entered into an 8 hour per day work hardening program. The claimant progressed to full duty and reached MMI on 1/21/04. She is left with a 4% whole person impairment for the work related injuries.

**Requested Service(s)**

Dates in dispute are for services rendered from 10/6/03 through 10/24/03 including work hardening program/work conditioning program initial and work hardening program/work conditioning program each additional hour.

**Decision**

I agree with the insurance carrier and find that the services in dispute were not medically necessary.

### **Rationale/Basis for Decision**

The rationale for this decision is based upon several issues relative to the case. The claimant completed a 4 week work conditioning program on or about 10/2/03. During this 4 week period, she maintained a 4 hour per day work schedule. Apparently there was no physical difficulty with maintaining this 4 hour per day responsibility. To then excuse the claimant from work while performing an 8 hour per day work hardening program results in several deviations of not only the TWCC treatment guidelines, but also the standard of care.

The claimant's absence from work resulted in a regression from the ultimate treatment goal of functional independence and therefore constituted an "inefficient utilization of health care". Within the TWCC system the treating doctor bears responsibility for providing "cost effective health care". The treating doctor's action in this case did not provide the same.

Additionally, the initial referral of a claimant to a return to work program is based upon: functional deficit, the presence or absence of psychological barriers to recovery, and the availability of the claimant's occupation. This claimant exhibited functional deficit, but no psychological barrier to recovery. Initially she was correctly placed into a work conditioning program. The medical fails to document a mental health issue in this case that would require the psychological counseling component of a work hardening program.

Lastly, the treatment guidelines clearly state that: "after completion of a rehabilitation program, re-enrollment or repetition in the same rehabilitation program for the same condition or injury would not be medically warranted".

It is understood that the TWCC treatment guidelines were abolished prior to the services in question. However, since the guidelines were created by a panel of experts in the field of musculoskeletal disorders, they remain the accepted standard of care.