

THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-05-0856.M5

MDR Tracking Number: M5-04-3389-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 6-04-04.

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** 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 the only issue** to be resolved. The work hardening program rendered from 6/24/03 through 8/06/03 was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

This Findings and Decision is hereby issued this 2nd day of September 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

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 outlined above as follows:

- 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 TWCC reimbursement methodologies for Return to Work Rehabilitation Programs for dates of service after August 1, 2003 per Commission Rule 134.202(e)(5).

- 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 6/24/03 through 8/06/03 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 2nd day of September 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

August 19, 2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3389-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was injured on ___ while at work as a garbage collector. He suffered an injury to his low back when he was lifting a heavy trashcan. He received treatment and diagnostics to include but not limited to rest, physical therapy, medical treatment, medication management, massage therapy, chiropractic treatment, laminectomy and discectomy at L4-L5, post operative care, and ESI's. For the purpose of this review, the injured worker was under the care of Dr. K.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of 97545-WH and 97546-WH work hardening from 6/24/03 through 8/6/03.

DECISION

The reviewer disagrees with the previous adverse determination.

BASIS FOR THE DECISION

The basis for the determination is the 1996 Medical Fee Guidelines specific to Work Hardening, Industrial Rehabilitation-Techniques for Success and Texas Labor Code 408.021. The disputed services were individual treatment dates within a block of work hardening care. Work hardening is generally viewed as a block or group of care in its entirety and it is very difficult to review individual dates of service within a treatment program such as this because the treatment should be reviewed on its whole based on entrance criteria and exit criteria – see 1996 MFG and Industrial Rehabilitation. To achieve the desired results, a work hardening program generally consists of multidisciplinary care of 4-8 weeks as a standard protocol – see Industrial Rehabilitation. Based on the nature of ___'s injury and his effective PDL levels it is apparent that ___ could have benefited from such a program and because the entrance to such a program was not disputed and thus considered medically necessary, then the dates under review within the program of work hardening would be considered medically necessary.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner. Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty

As an officer of Specialty IRO, IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,