

MDR Tracking Number: M5-04-3621-01

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 6-24-04.

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) and the functional capacity evaluation rendered from 7/09/03 through 8/06/03 were 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 7/09/03 through 8/06/03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 21st day of October 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc
Enclosure: IRO decision

MEDICAL REVIEW OF TEXAS
[IRO #5259]
3402 Vanshire Drive Austin, Texas 78738
Phone: 512-402-1400 FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISION III – 10/18/04

TWCC Case Number:	
MDR Tracking Number:	M5-04-3621-01
Name of Patient:	
Name of URA/Payer:	Rehab 2112
Name of Provider:	Rehab 2112
<small>(ER, Hospital, or Other Facility)</small>	
Name of Physician:	Joseph Jenkins, DC
<small>(Treating or Requesting)</small>	

August 17, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
 Medical Director

cc: Rosalinda Lopez, Texas Workers Compensation Commission

CLINICAL HISTORY

In performing this review, the following documents were considered:

1. "MDR Request" position statement from Requestor dated 06/29/04
2. Copies of claim forms from provider and EOBs from carrier
3. Daily notes from Requestor, including Case Management Summaries and Psychology Group Notes
4. Functional Capacity Evaluations dated 12/30/02, 01/14/03, 07/09/03, and 08/06/03
5. Patient initial intake information (10/25/02) and initial examination (10/29/02)
6. Employee's First Report of Injury
7. TWCC-73s, dated 11/08/02, 11/25/02 and the 3rd not dated
8. Nerve Conduction Study dated 10/29/02 by Metroplex Diagnostics and interpreted by Natalia Kogan, D.C., D.A.C.B.N.
9. Report of MRI lumbar spine from White Rock Open Air MRI dated 10/28/02 and interpreted by Dee L. Martinez, M.D., DABR
10. History and Physical Report dated 10/28/02 from Douglas Wood, D.O.
11. Intake sheets for Rehab 2112 dated 11/26/02
12. Three pages of handwritten notes from unknown source - initial entry 11/26/02 with final entry 08/08/03

Patient is a 37-year-old female office coordinator for H&R Block who, on ____, injured her lower back. Reportedly on that date, she was lifting boxes in excess of 50 pounds each from her car to a classroom when she had acute onset of pain that radiated into her bilateral lower extremities. She presented to a doctor of chiropractic who began conservative care, physical therapy and eventually rehabilitation including work hardening.

REQUESTED SERVICE(S)

Work hardening, initial (97545) and work hardening, each additional hour (97546), and Functional Capacity Examination for dates of service 07/09/03 through 08/06/03.

DECISION

All services are denied.

RATIONALE/BASIS FOR DECISION

In this case, there were extensive medical records submitted for review, but they consisted primarily of the records that were generated during the work hardening program itself. Largely lacking in what was available for review were the medical records leading up to the work hardening that began on 01/06/03, leaving only the functional capacity evaluation (FCE) performed on 12/30/02 on which to rely to determine medical necessity. However, TWCC Medical Fee Guidelines require more than merely a decreased physical demand level (PDL) demonstrated on an FCE to qualify for entry into a work hardening program. Since this documentation was missing, there is no way to determine whether or not the patient met those criteria.

Furthermore, the records in this case show that even though the work hardening program was tried, it failed. Specifically, the patient's pain worsened (she entered the program on 01/06/03 with a pain rating of 6/10, "10" representing the worst pain possible, and on the follow up FCE performed on 01/14/03, she was a 7/10), and her range of motion remained materially unchanged between the two FCE testing dates. In addition, the therapist's own records revealed comments such as "patient refused to participate in work hardening program" and "declined boxes activities, she stated it was to [sic] soon for her to do this," indicating that she was even non-compliant with the program during her participation. The records then stated that the patient was released from the work hardening program on 01/21/03, after completing only 3 of the 6 weeks planned.

There were no other records available regarding the patient until 07/09/03 when another FCE was performed, and the patient reentered the work hardening program on 07/14/03. Of particular interest is that the daily notes for that date of service refer to the visit of 07/09/03 as "week 4 of 6 scheduled weeks," indicating that the patient was actually resuming the original treatment plan from the past January.

However, since work hardening failed in the first place, and no reasoned justification was provided to demonstrate why it was

expected to succeed on a second trial, it is not surprising that again the patient did not benefit. Specifically, and according to the records, the patient participated in the work hardening program for 3 more weeks while her pain recordings remained between 6-8/10 the entire time. Another FCE was performed on 08/06/03. On that encounter, her pain was still 7/10, and the FCE revealed that her range of motion had actually *decreased* in every measured direction from the 07/09/03 FCE.

Therefore, the medical necessity of the work hardening program from 07/14/03 through 08/06/03 cannot be supported as the care did not meet the statutory requirements of Texas Labor Code 408.021 in that it failed to relieve the patient's symptoms, it failed to promote the patient's recovery, and it did not enhance the injured worker's ability to return to work.