

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 08-17-04.

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 \$650.00** 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 and work hardening each additional hour were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 27<sup>th</sup> day of October 2004.

Debra L. Hewitt  
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 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 08-18-03 through 10-03-03 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 27<sup>th</sup> day of October 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dlh  
Enclosure: IRO decision

October 5, 2004

TEXAS WORKERS COMP. COMMISSION  
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY:

CLIENT TRACKING NUMBER: M5-04-4269-01

AMMENDED

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Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIOA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the case in question 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. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIOA for independent review.

Notification of IRO Assignment (9/15/04)

Letter from Texas Worker's Compensation Commission (9/15/04)

Medical Dispute Resolution Request/Response

Tables of Disputed Services

Liberty Mutual explanation of benefits

Order for Payment of Independent Review Organization Fee

Letter from Simon W. (Trey) Hendershot, III (9/21/04)

Retrospective Review (M5) Information Request

Other Care Utilization Review from URS (9/18/03)

Functional Capacity Evaluation (8/15/03)

Work Hardening Program notes (week ending 8/22/03 through week ending 10/3/03)

Discharge Functional Capacity Evaluation, 10/3/03

Notes from Ergonomic Rehabilitation of Houston, LLG (8/22/03 through 10/3/03)

Job description

Work Hardening Weekly Staffing notes (8/22/03 through 10/3/03)

WH-Group Therapy notes (8/22/03 through 10/3/04)

WH Weekly patient Comments and Goals (8/18/03 through 9/30/03)

Weekly Assessment form (8/15/03 through 10/3/03)

Notice from Westfield Medical Clinic, 9/15/04

Miscellaneous insurance correspondence (16 pages), Review information (6 pages), FCE (08/15/03), Weekly work hardening progress notes (7), Work hardening discharge summary (10/03/03), Care plan flow charts (6), Miscellaneous work hardening forms (13 pages), Fax cover sheet (09/15/04)

### **Summary of Treatment/Case History:**

This patient had a reported work-related injury on \_\_\_\_\_. He was diagnosed as having thigh and pelvic pain, abdominal pain, and low back pain. After undergoing various conservative interventions, the patient participated in a functional capacity evaluation on 08/15/03. The results indicate he was performing at a "medium-light" physical demand level. His job required a level of "medium heavy." Thus, a six-week period of work hardening was scheduled.

The patient completed 29 of 30 scheduled work hardening visits. He was discharged from work hardening on 10/03/03.

The charges indicate the use of code #97545, which is for the initial two hours of work hardening. The work hardening notes indicate that each session lasted a total of eight hours. Thus, the code #97546 was used, which is supposed to be for "each additional hour" of work hardening.

Some of the charges include 24 units per session of code #97546, which is not an appropriate submission, as it would mean that the patient was in work hardening for 26 hours per day. Code #97546 includes a whole hour of work hardening and is not to be broken out into four units per hour.

It is clear from the notes that the patient was in session for eight hours each day, with the exception of 9/19/04 and 9/25/04, in which he was only in session four hours. Thus, with the exception of 9/19/04 and 9/25/04, the proper submission would be one unit of code #97545 (initial two hours of work hardening) and six units of #97546 (each additional hour of work hardening)—for a total of eight hours of work hardening.

### **Diagnoses:**

Thigh/pelvis pain

Abdominal pain

Low back pain

### **Questions for Review:**

1. Please advise as to the medical necessity of work hardening (#97545), and work hardening, each additional hour (#97546).

**Explanation of Findings:**

The work hardening notes indicate that the patient was in session for a total of eight hours each documented day of work hardening. For each of the 29 sessions, the charges should reflect one unit of #97545 and six units of #97546, with the exception of 9/19/04 and 9/25/04, in which the patient was only in session four hours. On these two occasions, only two units of code #97546, which appropriately represents four hours each of work hardening.

**Conclusion – Partial Decision to Certify:**

1. Please advise as to the medical necessity of work hardening each additional hour (#97546).

The documentation supports the medical necessity of the use of code #97546 for up to six units each session, with the exception of 9/19/04 and 9/25/04, in which the patient was only in session four hours. On these two occasions, only two units of code #97546 are warranted.

#97545 – Work hardening/conditioning; initial 2 hours. Appropriately used.

#97546 – Each additional hour of work hardening. This code should be reflected with six units in all cases, with the exception of 9/19/04 and 9/25/04, in which only two units should be included (seeing that the patient was only in session four hours on those two dates).

**References Used in Support of Decision:**

1. Pattern D: Impaired Joint Mobility, Motor Function, Muscle Performance, and Range of Motion Associated with Connective Tissue Dysfunction. In *Guide to Physical Therapist Practice*. 2<sup>nd</sup> Edition. American Physical Therapy Association. Alexandria, VA. 2001. Pp. 205 – 222.
2. *Current Procedural Terminology: 2001*. 2<sup>nd</sup> Edition. American Medical Association.

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This reviewer has a Masters in Physical Therapy. They are currently the Clinic Manager of an orthopedic physical therapy practice. The reviewer has been certified by the American Board of Physical Therapy Examiners as an Orthopedic specialist. The reviewer is also a certified manual physical therapist. The reviewer has been certified by the National Strength and Conditioning Association as a Sports and Conditioning Specialist. The reviewer is a member of the American Physical Therapy Association. The reviewer is the author of 64 patient education modules in a series entitled A Patient's Guide to Rehabilitation. The reviewer has been in active practice since 1991.

MRloA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIOA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIOA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIOA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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