

MDR Tracking Number: M5-05-0169-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 9-8-04.

The IRO reviewed a work hardening program.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. The IRO deemed the work hardening program from 4-1-04 through 4-23-04 was medically necessary. The IRO agreed with the previous adverse determination that the work hardening program from 4-26-04 through 4-30-04 was not medically necessary. 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 \$460.00** for the paid IRO fee. For the purpose 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.

The above Findings and Decision is hereby issued this 31st day of December 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

### **ORDER**

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 Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- 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 4-1-04 through 4-23-04 as outlined above 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 31st day of December 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

Enclosure: IRO Decision



Specialty Independent Review Organization, Inc.

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October 22, 2004

Hilda Baker  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-05-0169-01  
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 reviewer is on the TWCC ADL. 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 working for the \_\_\_\_\_. She reportedly slipped and fell on a freshly waxed floor striking her buttocks and lower back. The patient was initially treated at the \_\_\_\_\_ Medical Branch Hospital and subsequently began treatment with Suhail Al-Sahli, DC. A lumbar MRI indicated a L5/S1 disc bulge with neuroforaminal stenosis bilaterally. She was referred for consultation with Masour Ahmed, MD and Rezik Saqer, MD. Records of daily treatment were scarce during the first phases of treatment. FCE's were performed on 1/7/04 and 5/3/04. A work hardening program was initiated on 3/18/04 and terminated on 4/30/04. The patient was found to be at MMI as of 5/21/04 by Osama Nahas, MD with a 0% IR. On 7/12/04, a peer review was performed by Brad Hayes, DC.

Records reviewed include but are not limited to the following: From the carrier: MBM services letter of 10/7/04, 7/12/04 peer review by Dr. Hayes, initial injury report, benefit dispute agreement, Radiological reports by \_\_\_\_\_ MB, lumbar MRI of 11/10/03, 12/18/03 RME by Robert Brownhill, MD, various TWCC 73's, FCE 1/7/04, 7/16/04 DD report by Osama Nahas, MD. The requestor/treating doctor sent the following records in addition to those sent by the carrier: 10/7/04 letter of medical necessity, 11/7/03 and 11/21/03 notes by Masour Ahmed MD, records from Rezik Saqer, SOAP notes from TX Pain Solutions from 12/19/03 through 5/21/04, FCE 5/3/04 and work hardening notes from 3/18/04 through 4/30/04.

### DISPUTED SERVICES

Disputed services include a work hardening program from 4/1/04 through 4/30/04.

### DECISION

The reviewer disagrees with the previous adverse determination regarding dates of service from 4/1/04 through 4/23/04.

The reviewer agrees with the previous adverse determination regarding all remaining services.

### BASIS FOR THE DECISION

The reviewer indicates that Dr. Hayes report states the claimants work classification was not affected by the program. According to the FCE of 5/3/04, the patient's ROM increased to at or above normal and her strength increased in nearly all categories of measurement. (100% increase in torso lift, 150% increase floor to waist lift, 100% increase in floor to shoulder lift). The patient has increased her functionality, reduced pain (according to treatment notes) and returned to full time work since and/or during the program. This is in compliance with TLC 408.021 which states that an employee is entitled to medical care that "1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment." Therefore, based upon the above-mentioned results the first six

weeks of the work hardening program are allowed as medically necessary. A functional diagnostic test would have been appropriate following four weeks to determine which PDL the patient had attained.

References:

Van Tulder MW, Almivaara A, et al. Exercise Therapy for low back pain. The Cochrane Database of Systematic Reviews, Cochrane Library number. CD000335. In: The Cochrane Library Issue 2, 2002 Oxford: updated software.

Hilde G, et al. Effect of Exercise of exercise in the treatment of chronic low back pain: a systematic review, emphasizing type and dose of exercise. *Physical Therapy Reviews* 1998; 3:107-117.

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.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director