

August 8, 2002

Re: Medical Dispute Resolution
MDR #: M2-02-0845-01
IRO Certificate No.: IRO 5055

Dear

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to ___ for an independent review. ___ has performed an independent review of the medical records to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating physician. Your case was reviewed by a physician reviewer who is Board Certified in Physical Medicine and Rehabilitation and Electromyography and Electrodiagnostic Medicine.

THE PHYSICIAN REVIEWER OF YOUR CASE **AGREES** WITH THE DETERMINATION MADE BY THE UTILIZATION REVIEW AGENT ON THIS CASE. REVIEWER IS OF THE OPINION THAT A WORK HARDENING PROGRAM IS NOT INDICATED OR MEDICALLY NECESSARY IN THIS CASE.

I am the Secretary and General Counsel of ___ and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

We are forwarding herewith a copy of the referenced Medical Case Review with reviewer's name redacted. We are simultaneously forwarding copies to the patient, the payor, and the Texas Workers' Compensation Commission. This decision by ___ is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within ten (10) days of your receipt of this decision (28 Tex. Admin. Code 142.5©).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within twenty (20) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This Decision is deemed received by you five (5) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5 (d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings
Texas Workers' Compensation Commission
P.O. Box 40669
Austin, TX 78704-0012

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on August 8, 2002.

Sincerely,

MEDICAL CASE REVIEW

This is for _____. I have reviewed the medical information forwarded to me concerning TWCC Case File #M2-02-0845-01, in the area of Physical Medicine and Rehabilitation. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Operative report.
2. Functional capacity evaluation.
3. Physical therapy notes.
4. History and physical notes.
5. Progress notes and office notes from 2002 and 2001.
6. Correspondence from the treating physicians to the insurer.
7. Request for review of denial of work hardening.

B. BRIEF CLINICAL HISTORY:

The best history available is from the one done by ___ who was a designated doctor and did an impairment rating. This was done on May 14, 2002. The patient apparently sustained a lifting injury to his right elbow. He had pain in his right lateral and medial elbow. He had various therapies including injections and a considerable amount of physical therapy, but the bottom line was that on November 13, 2001, he had a right elbow lateral epicondylitis and radial capitellar joint synovitis surgically treated. He had debridement of the right lateral epicondyle with partial ostectomy and radial capitellar joint arthrotomy and synovectomy by ___.

He has not gotten well enough to return to work since then, and the notes are somewhat unclear whether he had any relief from the surgery, though he did say that ___, the designated doctor, stated the improvement he had from surgery was that he had no pain at rest. However, he still had significant pain with any lifting activities. It should be noted again that the surgery was done on November 13, 2001, and today is 7th August 2002.

C. DISPUTED SERVICE:

The disputed service is a request for work hardening. The insurer is denying pre-authorization for work hardening.

D. DECISION:

I AGREE WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER IN THIS CASE, NAMELY DENYING WORK HARDENING FOR THIS INDIVIDUAL.

E. RATIONALE OR BASIS FOR DECISION:

In reviewing the extensive amount of data, I have tried to determine exactly what work hardening was being requested.

In work hardening, as in any other exercise program, one must determine exactly what the goal is. Presumably, the goal is to get this gentleman back to work. Since he has not responded to any of the therapies provided up until now and, in fact, did not respond to the surgery in a nine-month period of time, I think a very definite program must be outlined and a very definite goal. He has certainly had enough time to get back to a normal range of motion,

and there certainly has been enough time for healing and yet there is no benefit.

Presumably, he was injured with an overuse injury to his elbow. Thus, exercising a joint which has suffered overuse simply does not make good sense. In an overuse injury, one either fixes the pathology or one gives the joint rest. Logically then in this case, since the pathology has not been repaired and probably is not repairable, then putting the elbow in a position where it does not need to be used seems like the logical solution rather than work hardening. Also, work hardening of the elbow would be a rather difficult process, if not impossible.

As ___ states in his review, when he confronts the issue of the work hardening program, he has no job to return to; therefore, what is he being work hardened for. Again, what is missing in this request is there is no goal and no end-point.

Since there has been no functional improvement, and this term is used throughout the report--that there has not been any functional improvement, perhaps the diagnosis needs to be reconsidered. At any rate, there seems to be no rationale for exercising an elbow which is painful pre- and post-operatively and which presumably was an overuse injury.

I simply do not see any benefit from exercising a painful, surgically traumatized joint.

I have not been asked to recommend any treatment, but I declared in my above statement that I believe a lack of motion rather than increasing motion of the elbow is going to be useful in the care of this patient. Without a goal, i.e., a job, without a job description, i.e., what the elbow will do, there seems to be no rationale whatever for exercising this elbow or doing work hardening which is not goal directed, and this seems to be the case. A work hardening program for a non-goal-directed end-point is being requested, and based on this, I have to agree with the determination of the insurance carrier that work hardening is not indicated in the care of this patient.

F. DISCLAIMER:

The opinions rendered in this case are the opinions of this evaluator. This medical evaluation has been conducted on the basis of the documentation as provided to me with the assumption that the material is true, complete and correct. If more

information becomes available at a later date, then additional service, reports or consideration may be requested. Such information may or may not change the opinions rendered in this evaluation. My opinion is based on the clinical assessment from the documentation provided.

Date: 7 August 2002