

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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 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(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** 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 treatment/services (including: office visits, FCE, work hardening and supplies) were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these treatment/services (including: office visits, FCE, work hardening and supplies) charges.

This Finding and Decision is hereby issued this 18th day of December 2002.

Carol R. Lawrence
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 9/13/01 through 11/26/01 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 18th day of December 2002.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/cl

November 25, 2002

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5 03 0004 01
IRO #: 5251

___ 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 ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an 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 Doctor of Chiropractic who is board certified in Chiropractic Orthopedics. The ___ 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 ___ 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

___, a 43 year old female, injured her left foot while working for ___ in ___. She was loading an oak headboard which dropped onto her left foot. She was initially treated by ___ who referred her subsequently to an orthopedic surgeon, who cast her foot for 8 weeks. She was then given a diagnosis of reflex sympathetic dystrophy upon subsequent removal of the cast. She underwent multiple treatments, apparently without much success and sometime in 1996 was declared at MMI with 15% impairment by a designated doctor. On 4/18/01 ___ referred the patient to ___ for a functional capacity

evaluation and enrollment in a work hardening program. A functional capacity evaluation was performed on 5/3/01 and revealed that the patient demonstrated poor body mechanics, poor static postural tolerances and poor tolerances to functional lift tasks. There was psychosocial dysfunction with significant anxiety, depression and somatic preoccupation identified. An eight week course of 40 sessions of work hardening was recommended. The patient was allowed a change of treating doctor from ___ to ___ on 6/8/01 and apparently underwent a chronic pain management program which was completed on 8/10/01. She was referred back to ___ for a subsequent functional capacity evaluation on 8/10/01 for assessment of progress made in the chronic pain management program. Unfortunately, in the initial functional capacity evaluation performed on 5/3/01, there is minimal description or documentation of the patient's pain presentation, although an office visit dated that same day, pain was reported at a 6/10 level, with multiple areas of body pain identified. The patient presented for an office visit on 9/13/01 where her home exercise program was evaluated and she was scheduled for a functional capacity evaluation the following week, however was unable to complete due to unrelated illness. A subsequent functional capacity evaluation was performed on 10/9/01, at which time the patient continued to have multiple pain complaints over her whole body with a pain level of 9/10. Functionally between 5/3/01 and 10/9/01, there was a 5lb improvement with respect to lifting, however in both evaluations, the patient self terminated testing, with minimal elevation in heart rate, suggestive of suboptimal participation. Range of motion studies of the left ankle revealed a reduction in dorsiflexion with an increase in plantar flexion, between the two dates, although on 10/9/01 the motion studies are essentially identical to those of the right foot. The patient entered into a work hardening program on 10/15/01. The patient underwent 21 sessions of work hardening until 11/21/01, during which time the patient was supplied with some analgesic balm, a low back pillow support and an elastic lumbar support. She had a final functional capacity evaluation performed on 11/26/01. Again this reported a pain level of 9/10, with involvement of multiple body areas. Dynamic work activity strength had again improved. A recommendation for return to work in an unrestricted capacity was made.

DISPUTED SERVICES

The carrier has denied office visits, functional capacity examinations, work hardening and supplies.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

Work hardening involves a multidisciplinary approach and is reserved typically for outliers of the normal patient population, i.e. poor responders to conventional treatment intervention, with significant psychosocial issues and extensive absence from work. The patient satisfies the above requirements. There are fairly established indicators of psychosocial involvement in this patient, based on psychological screening batteries,

patient presentation and pain complaints. The patient has had extensive time away from work and has failed in a chronic pain management setting. The work hardening referral by the patient's treating physician appeared to be a final attempt at increasing the patient's function capacity, and the outcomes of the program appears to have achieved this.

The office visits appear to be appropriate assessments prior to the entry into a work hardening environment. The prescription of a back support and brace, even though not directly related to the area of injury, appear to be appropriate for assisting the patient through the work hardening process, which is not necessarily area-of-involvement specific.

The functional capacity tests are assessment / screening evaluations that are required prior to entry into a work hardening environment, as well as for post-program discharge / return to work information.

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

____ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,