

MDR Tracking Number: M5-03-0095-01

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The 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 was 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 Division has determined that work hardening fees were the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 8/20/01 to 9/28/01 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 3rd day of January 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

December 18, 2002

Re: IRO Case # M5-03-0095

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the

proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is board Certified in Physical Medicine and Rehabilitation. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient is a 40-year-old male injured on ___ when his shoelace got caught in a conveyor belt, causing him to fall and twist his knee. He was diagnosed with a sprain/strain of the left knee, with a possible partial ACL tear and degenerative joint disease on 12/13/99. During subsequent months he receive extensive chiropractic treatment. Surgery was performed on the left knee on 2/23/00. The patient continued to receive physical therapy and chiropractic treatment. A FCE on 5/9/00 was reported as demonstrating a heavy category physical demand level. The patient continued to receive extensive chiropractic treatment during subsequent months. The patient underwent Synvisc injections in November and December 2000. Further arthroscopic surgery of the left knee was performed 3/10/01. The patient was found to be at MMI on 6/29/01. A FCE on 6/29/01 indicated that the patient functioned at a very heavy physical demand level. A FCE on 7/2/01 again indicated that the patient functioned at a very heavy physical demand level, but testing was discontinued for the stated reason of safety. A third FCE on 7/10/01 again indicated that the patient performed at a heavy / very heavy physical demand level. It was noted that the patient exhibited no deficits in strength or mechanics, but that he could not complete all activities because of strength deficits. The patient was enrolled in a work hardening program that included job simulated tasks and occupational and psychological components. On 9/4/01 the patient was again rated at MMI with a 13% whole body impairment. After completion of the work hardening program the patient returned to work at full duty.

Requested Service

Work hardening Program 8/20/01 through 9/28/01

Decision

I agree with the carrier's decision to deny the requested treatment.

Rationale

The documentation provided for review does not support the need for a multidisciplinary work hardening program. All three 2001 FCEs show the patient functioning at a very

heavy physical demand level. In the absence of clear documentation of the patient's deficits, it appears that the patient was capable of performing his job requirements without the work hardening program. The FCE of 7/10/01 states in one section that the patient has strength deficits and an inability to perform his job tasks, and in another section states that he has no strength deficits and has the ability to perform his job tasks. The FCE also reports psycho physical endpoints described as fatigue, a sense of discomfort or inability to complete the required number of movements during the test interval. The patient's limitations, therefore, may have been with endurance rather than with strength, given his high level of lifting capacity.

Furthermore, there is no evidence of any psychological or occupational evaluation or screening, and no documentation of any deficits requiring treatment by an occupational therapist or psychologist. If job simulated tasks were required to improve the patient's endurance, a single disciplinary approach would have been more appropriate.

This medical necessity decision by an Independent Review Organization 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 the decision and has a right to request a hearing. A request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3). This decision is deemed received by you 5 (five) 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 Worker's Compensation Commission, P O Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

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

Sincerely,