

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(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 not the only issue** to be resolved. The work hardening program was found to be medically necessary for dates of service 12-10-01 through 1-17-02.

Neither party submitted EOBs for work hardening program on 12-6-01 and 12-7-01; therefore, the review was conducted per the 1996 Medical Fee Guideline. The documentation submitted did not support the requirements of a work hardening program and the hours billed were not supported. Therefore, no reimbursement is recommended for 12-6-01 and 12-7-01.

The above Findings and Decision are hereby issued this 22nd day of May 2003.

Dee Z. Torres  
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 12-6-01 through 1-17-02 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 22nd day of May 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

February 18, 2003 - REVISED

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

MDR Tracking #: M5-03-0365-01  
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.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor who is both specialized and board certified in Occupational Medicine. 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

\_\_\_ date of injury was \_\_\_. At that time he was a 32-year-old male working with \_\_\_. On the date of his injury he was pulling on a heavy object while in a twisting position. \_\_\_ felt some discomfort to his low back, but by late that same day he had significant discomfort; by the following morning he was unable to get out of bed. He presented to StatCare within a week of his injury and was evaluated and treated. He was advised that he had "pulled muscles" and was placed on light duty at work and given muscle relaxants. He gradually got better and was finally advanced to regular work. However,

three days after returning to work, while putting on his pants, he noted a sudden sharp pain to the lumbar spine area. The pain radiated down through the left leg to the left knee. He had not experienced this pain before. He returned to his physician who ordered an MRI scan and was told that he had a disc problem. \_\_\_ was then referred to \_\_\_ at \_\_\_. The patient was also seen by \_\_\_ at that facility. \_\_\_, on his note of 4/26/01, mentioned that he felt \_\_\_ to be a candidate for work hardening.

\_\_\_ was treated with physical therapy and subsequently entered a work conditioning and work hardening program. A functional capacity evaluation (FCE) done on 5/16/01 showed deficits and recommended a work hardening program.

#### DISPUTED SERVICES

Under dispute is a work hardening program provided to \_\_\_ from 12/10/01 - 11702.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

\_\_\_ diagnoses were lumbalgia and disc herniation at the L5/S1 level. It appears that he was evaluated and treated adequately and appropriately. Because he did have complaints and findings related to his injury, which did not allow him to return to his regular work, the determination of the need for work conditioning and work hardening was made. He underwent work hardening and work conditioning at \_\_\_ in \_\_\_. The goals were to get him to return to regular work and to normalize the deficits that he had on the FCE.

The work hardening provided by \_\_\_ in \_\_\_ did have the components of a work hardening program – physical restoration, psychological support and strong functional goals. Review of the provider's notes show that all the components of a work hardening program were carried out appropriately. Therefore, because \_\_\_ evaluation did show functional deficits from his injury, because attempts were made to improve his deficits and return him to gainful employment, and because the work hardening program appears to have been carried out appropriately, for appropriate reasons, and in an appropriate setting, the reviewer finds that there was indeed medical necessity for the work hardening provided to \_\_\_.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy

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,