

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-03-2490.M5

MDR Tracking Number: M5-03-0805-01

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

This dispute was received by the Commission on 11/20/02. Therefore, services from 11/12/01 through 11/14/01 are not eligible for review as per Rule 133.307(d)(1). 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 \$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 the only issue** to be resolved. The disputed work conditioning program was found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Order is hereby issued this 15th day of January 2003.

Noel L. Beavers
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 date of service 11/20/01 through 11/30/01.

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 15th day of January 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

January 8, 2003

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

MDR Tracking #: M5-03-0805-01
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 Physical Medicine and Rehabilitation. 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

___ is a 34-year-old male who sustained an injury at work on ___, when he lifted some metal parts and felt pain in the left inguinal area. He was diagnosed as a left inguinal hernia. He underwent left inguinal hernia repair on 9/20/01, by ___. Post-op, he had

persistent left lower quadrant pain that increased with exercise in the therapy program. He was referred to ___ who did a functional capacity evaluation on 11/7/01. The FCE determined his physical capacity was light physical demand classification. His work required a medium to heavy work capability. He entered a work-conditioning program.

According to the records provided, he showed progression or improvement during the times in dispute from light workload to light-medium workload capacity.

DISPUTED SERVICES

Under dispute is the work-conditioning program provided to ___ from November 20, 2001 through November 30, 2001.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

___ job description includes intermittent handling of materials that were in the medium to heavy category. Prior to returning to work, an FCE determined that he was only capable of handling materials in the light physical demand capacity. The testing indicated that he was a candidate for work conditioning. He participated in the work-conditioning program and showed progress towards his goal of achieving the physical capability of returning to his job's physical requirements. The facility that provided the work conditioning was a CARF-certified facility. The program that he received was of proper caliber and well documented.

___ 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,