

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 \$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 work hardening program was found to be medically necessary. The FCE completed on 11/5/02 was paid per MFG, therefore no longer a dispute. The respondent raised no other reasons for denying reimbursement for these work hardening charges.

This Finding and Decision is hereby issued this 17<sup>th</sup> day of April 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer

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 4/1/02 through 5/10/02 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 17<sup>th</sup> day of April 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/cl

## NOTICE OF INDEPENDENT REVIEW DECISION

April 10, 2003

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
4000 South IH-35, MS 48  
Austin, TX 78704-7491

RE: MDR Tracking #: M5-03-1020-01  
IRO Certificate #: IRO4326

The \_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a \_\_\_ physician reviewer who is board certified in neurosurgery which is the same specialty as the treating physician. The \_\_\_ physician reviewer has signed a certification statement stating 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 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 this case.

### Clinical History

This patient sustained a work-related injury on \_\_\_ when he was loading wheel rims onto a truck and injured his lower back. An MRI of the lumbar spine was performed in September of 2001 and revealed a large posterior disc herniation of L5/S1 and he underwent surgery of the lumbar spine in October of 2001. The patient participated in a work hardening program from 04/01/02 through 05/10/02.

### Requested Service(s)

The work hardening program from 04/01/02 through 05/10/02

### Decision

It is determined that the work hardening program from 04/01/02 through 05/10/02 was medically necessary to treat this patient's condition.

### Rationale/Basis for Decision

This patient sustained a herniated/extruded intervertebral disc at the L5-S1 level to the left-hand side on 08/22/01. He was treated conservatively and evaluated appropriately. During the

preoperative phase of his condition, he was completely sedentary. After undergoing a microneurosurgical lumbar laminectomy and discectomy at L5-S1 to the left with complete removal of the extruded disc fragments, his wound healed per primum and there were no surgical complications. The patient remained sedentary and inactive until referred for functional capacity evaluation on 01/14/02. At the time of the functional capacity evaluation, the patient had been sedentary and inactive for more than four months during which time a major spinal surgical procedure was performed. The functional capacity evaluation revealed significant muscular spasms, postural guarding, and weakness bilaterally in the lower extremities with a limited standing tolerance of 15 minutes associated with a hypokinetic gait. Walking was limited to ten minutes by pain. Other abnormalities were noted but most significantly there was considerable disuse muscle atrophy deconditioning and spinal joint stiffening. The patient responded very favorably to the initial program of physical therapy and was recommended to proceed into a work conditioning program.

The patient met criteria for enrollment into a work hardening program and the medical record documentation clearly documents the progressive benefits and gains which the patient accrued during the period of work hardening. Therefore, the work hardening program from 04/01/02 through 05/10/02 was medically necessary,

Sincerely,