

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

SOAH DOCKET NO. 453-03-3326.M5

MDR Tracking Number: M5-03-1190-01

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 job analysis 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 job analysis 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 date of service 5/1/02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 20th day of March 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division

NLB/nlb

March 14, 2003

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

MDR Tracking #: M5-03-1190-01
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 board certified in Family Practice and specialized 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

The information submitted notes that ___ was kept out of work and that no light duty position was available for her at ___. The Letter of Medical Necessity by WOL+MED indicates that job site assessments help identify all situations which unnecessarily fatigue workers and cause preventable injuries. Every detail is documented, often by videotape, and then analyzed ergonomically and physiologically. The details range from lighting placement, computer keyboards or work material, to the amount and type of vibration or temperature changes, and how tools are handled in relation to body position in doing tasks. The letter also states that while poor job site design causes the most serious injuries, most CTD injuries are caused by damaging work behavior. The letter goes on to give other ways in which the job site assessment can be utilized by both the injured employee and the employer.

DISPUTED SERVICES

Under dispute is the job analysis denied as “U – Unnecessary treatment without a peer review.”

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

If ___ was kept out of work by her treating doctor and if there was no light duty position available for her at ___, the goal was to try to get her back to her regular work. Therefore, the treating doctor should have requested a job description for ___. Every effort should have been made to get her to perform her regular duties. If there was a possibility of any deficits from the work injury, a Functional Capacity Evaluation (FCE) would have been recommended to see if there were any functional deficits. If the treating doctor then

determined that there were functional deficits and restrictions from the work injury, they should have been submitted to ___ to see if ___ could be accommodated with restrictions. If the employer could accommodate her with restrictions, then a bonafide offer of restricted duties would be given to ___.

Therefore, it appears that since there was no light duty for ___ at ___, the goal was to get her to the point that she could do her regular work. Even though a job site assessment does identify situations that can fatigue and harm a worker and an prevent injuries and provides other information for the injured employee and employer, those were not the issues that needed to be addressed in determining whether ___ could do her regular work or not.

___ 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,