

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 FCE 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 the FCE fee was the only fee involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for date of service 6/5/02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 9th day of May 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/crl

NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 16, 2003

Requester/ Respondent Address : Rosalinda Lopez
TWCC
4000 South IH-35, MS-48
Austin, Texas 78704-7491

RE: MDR Tracking #: M5-03-1482-01
IRO Certificate #: 5242

___ 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 Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed 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 Chiropractic physician reviewer. The Chiropractic 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

By report, the claimant was reportedly serving chicken nuggets to school children when she reportedly began to experience sharp pain in the upper back and mid-back regions. This was from repeatedly having to lean over and place the food items on children's trays. The claimant rested over the weekend following this incident and, because her pain continued, she presented for chiropractic care to the Chiropractor. The claimant was reportedly released from active care on 2/6/02; however, a functional capacity evaluation of 6/5/02 was performed in order to see if the claimant progressed sufficiently enough via a home based exercise program such that the work restrictions that were placed on her on 2/6/02 could be lifted. A chiropractic peer review of 11/18/01, only one month post injury, was done and the carrier has reportedly denied the reasonableness and medical necessity of the 6/5/02 functional capacity evaluation based on the peer review which was done only one month post injury. At least this was the opinion of the chiropractic office that was providing services on the claimant. It appears the claimant was involved in non-specific 1997 workers' compensation injury; however, the exact nature and type of injury is not known. The claimant has reportedly not received care from this 1997 injury beyond 1999. The 2/6/02 functional capacity evaluation is reviewed revealing that the claimant was capable of medium to heavy duty work. The claimant also reported no subjective pain at all as of 2/6/02. The claimant was capable of medium work in the unrestricted vertical and horizontal planes and heavy duty work with respect to the restricted work plane. The 6/5/02 functional capacity evaluation did show the claimant had some slight increases in strength and range of motion; however, she was still certified to be at the medium to heavy duty work level.

Requested Service(s)

The medical necessity of the functional capacity evaluation of 6/5/02

Decision

I agree with the insurance carrier that the functional capacity evaluation of 6/5/02 was not medically necessary.

Rationale/Basis for Decision

Although there were some small insignificant improvements in range of motion and strength, the claimant clearly demonstrated the ability to return to work without restrictions back in February 2002 or actually before this date. It should also not be forgotten that this was a minor thoracic myofascial strain injury as documented. The claimant obviously demonstrated the ability to return to work without restrictions as of 2/6/02. The medical necessity of the 6/5/02 functional capacity evaluation has not been established. I find it rather alarming as well that the claimant

was not returned to work without restrictions until 8 months post injury and that this was attributed to the very minor thoracic myofascial strain injury of _____. There is no documented rationale or objective basis for why the claimant would need to be restricted from work from February 2002 onward. It would have been more cost effective to simply monitor the claimant via a single office visit after she was returned to work without restrictions to make sure she had a smooth transition back to full time unrestricted employment which should have occurred as of at least February 2002. The documentation reveals this claimant could have returned to work without restrictions as of at least 2/6/02. This injury was obviously very minor and there was no documented rationale or objective basis for why the claimant could not return to work without restrictions as of 2/6/02.

This decision by the IRO is deemed to be a TWCC decision and order.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 16th day of April 2003.