

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

SOAH DOCKET NO. 453-04-3450.M5

MDR Tracking Number: M5-03-1682-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General 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 on 3-6-03.

The IRO reviewed FCE and work hardening program rendered from 3-27-02 through 4-23-02 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On May 22, 2003, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

Neither party submitted EOBs to support services identified as "No EOB"; therefore, they will be reviewed in accordance with *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
3/27/02 3/29/02 4/18/02	97545WHAP (2) 97546WHAP (6)	\$128.00 \$384.00	\$0.00	F, A	\$64.00 / hr for CARF Accredited	Medicine GR (II)(E) Rule 134.600(h)(9)	Preauthorization approval report was not submitted to support approval of work hardening program; therefore, no reimbursement is recommended.
4/17/02	97545WHAP (2) 97546WHAP (6)	\$128.00 \$384.00	\$0.00	No EOB	\$64.00 / hr for CARF Accredited	Medicine GR (II)(E)	Work hardening report supports 8 hours of work hardening per MFG, reimbursement of \$64.00 X 8 = \$512.00.
4/19/02	97545WHAP (2) 97546WHAP (6)	\$128.00 \$384.00	\$0.00	D	\$64.00 / hr for CARF Accredited	Medicine GR (II)(E)	Work hardening was not a duplicate service rendered on this date. Work hardening report supports 8 hours of work hardening per MFG, reimbursement of \$64.00 X 8 = \$512.00.
4/22/02	97545WHAP (2)	\$128.00	\$0.00	D, F	\$64.00 / hr for CARF Accredited	Medicine GR (II)(E)	Work hardening was not a duplicate service rendered on this date. Work hardening report supports 2 hours of work hardening per MFG, reimbursement of \$64.00 X 2 = \$128.00.
TOTAL							The requestor is entitled to reimbursement of \$1152.00.

ORDER.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for dates of service 3-27-02 through 4-23-02 in this dispute.

This Decision and Order is hereby issued this 31st day of December 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

May 12, 2003

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
4000 South IH-35, MS 48
Austin, TX 78704-7491

Re: MDR #: M5-03-1682-01
IRO Certificate No.: 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider.
This case was reviewed by a physician who is Board Certified in Physical Medicine and Rehabilitation.

Clinical History:

This male claimant sustained a work-related injury to his hand on _____. Three-phase nuclear bone scan of the wrist and hand revealed an abnormal focal tracer accumulation involving the radial aspects of the distal wrist in the region of the second metacarpal base. The patient received injections to the carpometacarpal joint, but only had minimal relief of pain. He had a second injection at the CMP joint in February 2002. This injection gave no symptomatic relief, so he underwent a Functional Capacity Evaluation where it was recommended that he participate in a work hardening program.

Disputed Services:

Functional Capacity Evaluation and Work Hardening Program during the periods of 03/28/02, 04/01/02 thru 04/10/02, 04/12/02 thru 04/16/02, and 04/22/02 thru 04/23/02.

Decision:

The reviewer agrees with the determination of the insurance carrier. The reviewer is of the opinion that the FCE and Work Hardening Program were not medically necessary in this case.

Rationale for Decision:

The lower levels of tertiary care were not exhausted prior to this rather significant leap in patient care. The normal sequelae for this type of injury would be pain and limited range of motion, which would gradually decrease over time with range of motion and strength-building exercises. The FCE and pain and stress indicator questionnaires indicated only minor stressors involved with the patient's injury to his hand.

The indicated stressors are inherent in any type of injury that involves the patient being removed from the work environment for a temporary period of time. The work hardening program, by definition, is a highly structured, goal-oriented individual treatment program designed to maximize the ability of the person served to return to work. Such programs are interdisciplinary in nature with the capability of addressing functional, physical, behavioral and vocational needs of the injured worker. With respect to this gentleman, the lower levels of tertiary care were not exhausted prior to the application of this inter-disciplinary approach. He did not demonstrate any significant psychological barriers that would preclude him from participating in a work conditioning program. Furthermore, the recommendation for a work hardening program was made by a physical therapist. Merely filling out a pain or stress questionnaire in and of itself does not delineate significant psychological barriers. A qualified mental health provider, who, by definition, is independently licensed to provide mental health services within the scope of practice defined by their applicable practice act, should be making such an assessment and recommendation.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,