

MDR Tracking Number: M5-03-1708-01

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.

The requestor submitted a medical dispute resolution request on 3/11/01 and was received in the Medical Dispute Resolution on 3/11/02. The disputed dates of service 3/6/01 through 3/9/01 are not within the one year jurisdiction in accordance with Rule 133.308(e)(1) and will be excluded from this Finding and Decision.

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 \$460.00** 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 conditioning and work hardening were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these work conditioning and work hardening charges.

This Finding and Decision is hereby issued this 16th day of July 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 3/12/01 through 4/13/01 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 15th day of July 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/crl

July 14, 2003

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

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___ 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.

This case was reviewed by a licensed Doctor of Chiropractic. 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

This patient suffered an onset of neck and back pain when lifting some boxes as part of his job. He was treated by ___ for the injuries and was treated with physical medicine and referred to ___, for evaluation. ___ examination was positive for a weakness of the right arm and he eventually recommended a MRI, which was positive at C4/5 and C5/6 for disc herniations. The report was interpreted by ___, a radiologist at ___ in ___. A EMG was performed by ___ and it revealed a radiculopathy of C5/6 on the left. A peer review by ___ denied care after February 13, 2000. He recommended ESI therapy, but then denied them in the next sentence. ___ was designated as the TWCC doctor on this

case and found the patient to not be at MMI as of March 21, 2001, recommending the ESI therapy.

DISPUTED SERVICES

The carrier has denied the medical necessity of work conditioning and work hardening programs from March 12, 2001 through April 13, 2001.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The treating doctor took the most conservative route on this case in a return to work program in which he entered the patient into work conditioning, which was documented in this file, and transitioned into work hardening, which was also appropriately documented. The patient had a serious neck injury which did require an advanced level of care, and the injury was documented through diagnostic testing and treatment records. The higher level of care was warranted and the patient did respond appropriately to the care. It is notable that a Designated Doctor evaluation, which was completed after the work hardening, did recommend further care and found the patient not to be at MMI. While this was unfortunate, I feel that the patient did benefit from the care of the treating doctor's recommendations and that the care was appropriate for the condition of the patient. No literature that I could find would contradict the treating doctor's recommendations.

___ 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,