

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 3-13-03.

The IRO reviewed a work hardening program and physical therapy services rendered from 4-17-02 through 8-23-02 that were denied based upon “U”.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

The IRO concluded that work hardening services rendered from 5-14-02 through 6-13-02 were medically necessary. The IRO concluded that services rendered from 6-13-02 and onward were not medically necessary.

Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for 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.

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

On June 16, 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:

Hartford insurance gave preauthorization approval for work hardening five (5) sessions a week for (4) four weeks on 4-9-02 and 5-16-02.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
4-17-02 4-18-02 4-19-02 4-22-02 4-23-02 4-24-02 4-25-02 4-26-02 4-29-02 4-30-02 5-1-02 5-2-02 5-3-02 5-6-02 5-8-02 5-9-02 5-10-02 6-14-02 6-19-02 6-20-02 6-27-02	97545 WH (2 hours)	\$128.00	\$0.00	N	\$51.20 / hr for Non-CARF	Medicine GR (II)(E)	Work hardening reports support billed service, reimbursement of 21 dates X \$102.40 =\$2150.40.
4-17-02 4-18-02 4-19-02	97546 WH (2 hours)	\$128.00	\$0.00	N	\$51.20 /hr for Non-CARF	Medicine GR (II)(E)	Work hardening reports support billed service, reimbursement of 3 dates X \$102.40 =\$307.20.
4-22-02 4-23-02 4-24-02 4-25-02 4-26-02 4-29-02 4-30-02	97546 WH (3 hours)	\$192.00	\$0.00	N	\$51.20 /hr for Non-CARF	Medicine GR (II)(E)	Work hardening reports support billed service, reimbursement of 7 dates X \$153.60 =\$1075.20.
5-1-02 5-2-02 5-3-02 5-6-02 5-8-02 5-9-02 5-10-02 6-14-02 6-19-02 6-20-02 6-27-02	97546 WH (4 hours)	\$256.00	\$0.00	N	\$51.20 /hr for Non-CARF	Medicine GR (II)(E)	Work hardening reports support billed service, reimbursement of 11dates X \$204.80 =\$2252.80.
6-11-02 6-12-02 6-13-02	97545 WH (2 hours)	\$128.00	\$0.00	F	\$51.20 /hr for Non-CARF	Medicine GR (II)(E)	Work hardening reports support billed service, reimbursement of 3 dates X \$102.40 =\$307.20.
6-11-02	97546	\$256.00	\$0.00	F	\$51.20 /hr for	Medicine	Work hardening reports support

6-12-02	WH				Non-CARF	GR (II)(E)	billed service, reimbursement of 3 dates X \$204.80 =\$614.40
6-13-02	(4 hours)						
TOTAL							The requestor is entitled to reimbursement of \$6707.20.

This Decision is hereby issued this 3rd day of November 2003.

Elizabeth Pickle
 Medical Dispute Resolution Officer
 Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

Date: June 10, 2003

RE: MDR Tracking #: M5-03-1909-01

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 chiropractor physician reviewer. The chiropractor 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

It appears that the claimant was struck on the head by an industrial light that reportedly weighed forty-eight (48) pounds and fell a reported eighty-five (85) feet. The claimant was wearing a hard hat and there was no loss of consciousness. However, the claimant reported neck, mid back and low back pain. Voluminous medical records were provided for review. The claimant reportedly saw ___, who is a neurologist, for treatment. The claimant reportedly saw a ___, who reportedly wanted to perform neck surgery. However, ___ reportedly left town and this was not done. The claimant has undergone lumbar epidural steroid injections and cervical mid back and lumbar MRI evaluations. It appears that lumbar spine surgery may have been discussed. However, the claimant had liver disease that prevented the need for surgery. The claimant was

also noted to have high blood pressure and he was a smoker. The claimant also reportedly underwent some physical therapy and chiropractic care in January of 2002. However, he was eventually recommended to see ___, for chiropractic rehabilitation on or about 03/05/02. The claimant underwent some neuromuscular re-education, electric stimulation, myofascial release and joint mobilization for about two and a half weeks. He was then transitioned into a work hardening or work conditioning program. Multiple work hardening notes were reviewed from 04/17/02 onward. A peer review of 06/07/02 was reviewed in which the peer reviewer, who in this case was ___, felt that the work hardening documentation did not meet the standards for a work hardening program. ___ performed another peer review of 08/06/02 and felt that the claimant's strength essentially remained the same or was static from 06/05/02 onward and she felt that further treatment beyond 06/12/02 was not warranted. The claimant underwent a functional abilities evaluation of 04/02/02 and again on 05/08/02. These tests revealed that the claimant had progressed from the light to medium duty level all the way up to the medium to medium heavy duty level through the first three and a half weeks of chiropractic care and work hardening.

Requested Service(s)

Please review and address the medical necessity of the outpatient services including work hardening treatments and physical therapy treatments from 05/14/02 through 08/23/02.

Decision

I disagree with the insurance carrier and find that the work hardening services that were rendered from 05/14/02 through 06/12/02 were medically necessary. I agree with the insurance carrier and find that the services rendered from 06/13/02 onward were not reasonable and medically necessary.

Rationale/Basis for Decision

It is my opinion that the documentation standards of the work hardening program were generally met. The program was individualized and overseen personally by a chiropractor and the claimant did see a licensed psychotherapist. The Medical Fee Guidelines are rather vague with respect to exactly what constitutes the work hardening program. However, the general requirements seem to have been met. Even ___, who performed a repeat peer review of 08/06/02, felt that the services were reasonable and medically necessary through no later than 06/12/02. She documented that the claimant appeared to have reached a plateau, or reached a stationary level of improvement or strength, as of 06/05/02. I concur with her opinion as I did review the documentation and this did seem to be the case. Also, ___, gave permission for pre-authorization of four (4) additional weeks of work hardening as of 05/14/02 or 05/16/02. As a person who has made numerous pre-authorization decisions in the past, I, like ___, would have concurred with the reasonableness and medical necessity of four (4) more weeks of work hardening based on the rather significant progress through 05/08/02 as documented on the subsequent functional capacity evaluation of that date. Sufficient progress has been shown to justify two (2) to four (4) weeks additionally of work hardening. The claimant was required to function at the very heavy or heavy duty level. The claimant has limited education and his prospects outside of a boiler maker or welder would be limited. At that time, all reasonable

efforts should have been made to increase the claimant's maximum amount of function. Also, by 06/12/02 the claimant seemed to plateau from a functional and subjective standpoint, making further treatment beyond 06/12/02 not likely to progress the claimant's condition any further. ___ was also supportive of the work hardening program. The claimant had also been out of work since the date of injury. So, a significant amount of deconditioning would be expected to have occurred, further justifying the work hardening program. It was also documented that the claimant could not take medications due to a liver problem. Therefore, there would be a need to increase this claimant's function as much as possible, while decreasing his pain, so that he would not have to take pain medications.

The services rendered on 08/23/02 were of the electric stimulation, therapeutic exercise and neuromuscular re-education type. These would not be considered reasonable and medically necessary, as this would essentially be working backwards in the sequence of care. I understand that the claimant may have had an exacerbation of some kind. However, these services would not be considered reasonable and medically necessary.