

MDR Tracking Number: M5-03-2140-01

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 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 office visits, work hardening program, MMI/IR report review and FCE were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these office visits, work hardening program, MMI/IR report review and FCE charges.

This Finding and Decision is hereby issued this 23<sup>rd</sup> day of June 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

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 8/7/02 through 11/11/02 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 23<sup>rd</sup> day of June 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/crl

June 13, 2003

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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.

The independent review was performed by a matched peer with the treating doctor. 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

\_\_\_ was injured while at work on \_\_\_ while installing a pipe for a water heater. He lost his balance while standing on a scaffold and fell, injuring is left leg, right elbow and low back.

A plain film radiography of the thoracic and lumbar spine performed on 4/29/02 revealed mild spondylosis at T10/11 and early degenerative disc disease at L2/3 and L3/4. A MRI of the lumbar spine performed on 6/20/02 revealed a 2-3 mm protrusion at L4/5 with a radial tear and a 2-3 mm protrusion at L5/S1. No nerve compression was noted.

An FCE was performed on 8/7/02. The required physical demand capacity of a plumber is at a heavy level. The demonstrated physical performance capacity was at a light medium level. The barriers to returning to work reported included high levels of pain, decreased strength and gross mobility skills, poor activity tolerances and endurance,

range of motion limitations with respect to the spine, and a psychometric impairment. It was recommended for the patient to continue rehab.

Work hardening notes were reviewed. The notes documented goal-oriented physical rehabilitation, work simulation and group psychological treatment.

An FCE was performed on 9/11/02. It revealed that the patient could function at a light medium physical demand capacity with the following barriers to returning to work: high level of pain, impaired gross mobility skills, psychometric impairment and decreased handling tolerance/strength.

\_\_\_\_, social worker and case manager, met with \_\_\_\_ on 9/12/02, 10/9/02, 11/4/02 and 11/13/02.

\_\_\_\_ evaluated the patient on 10/3/02, and his clinical impression included an annular tear with disc protrusion/herniation. \_\_\_\_ recommended continuing work hardening.

A work hardening note dated 10/14/02 noted that \_\_\_\_ reported ongoing significant pain and was somatically preoccupied. The following psychosocial barriers were reported: fear of re-injury, high pain levels, high PDL's in his previous job, no other job skills identified, intolerance to exercises due to increased pain and poor English skills.

A medical conference dated 10/14/02 was performed with all providers. Specific goals were established. It was noted that the patient was "approved" for 15 visits of work hardening.

An extension of work hardening was requested and granted for ten visits from 10/25/02 through 11/26/02.

On a paper review dated 10/22/02, \_\_\_\_ noted that the injuries "appear to be no more than soft tissue injuries." There would be no reason for any further chiropractic care, follow-up visits, prescription medications, physical therapy, durable medical equipment, further diagnostic testing, work conditioning, work hardening, or pain management. This claimant should be capable of returning to work in some capacity effective immediately. I see no reason for any future care... I see no medical necessity for any psychological testing or evaluations."

An FCE was performed on 10/23/02. \_\_\_\_ could now function at the medium physical demand level. \_\_\_\_ evaluated \_\_\_\_ on 11/7/02 and recommended continuation of work hardening.

A medical conference was performed on 11/11/02 with all providers, and specific goals were established. It is noted that the patient was approved for ten visits of work hardening. \_\_\_\_ evaluated the patient on 11/14/02 and referred the patient to TRC. \_\_\_\_ recommended completion of the work hardening program.

An FCE was performed on 11/20/02. The required physical demand capacity of a plumber reported is at a heavy level. The patient's demonstrated physical performance capacity was at a medium level. The FCE demonstrated that the thoracic flexion, thoracic left rotation, thoracic right rotation, and lumbar extension planes of motion decreased in movement. It also demonstrated that the thoracic kyphotic angle, lumbar flexion, lumbar left lateral flexion and lumbar right lateral flexion planes of motion increased in movement.

\_\_\_\_, designated doctor, evaluated \_\_\_\_ on 12/5/02 and determined that he was at MMI, assigning him a 0% impairment rating based upon DRE category 1.

A denial of continuing the patient's work hardening program was dated 12/6/02. Pre-certification of work hardening was received on 12/10/02 with a pre-cert number: 020916-159.

\_\_\_\_, chiropractor, reviewed the records for \_\_\_\_\_. He made some "conclusions concerning office visits, referrals, DME, work hardening and medications." It is noted \_\_\_\_\_ initial diagnosis included thoracic facet syndrome, lumbar facet syndrome, spasm of muscle, sprain or ribs, and pain in the thoracic spine. A radiographic report was noted to display mild spondylosis at T10/11 and early DJD at L2/3 and L3/4. Electrodiagnostic testing revealed a prolonged dermatosensory latency of the bilateral L5/S1 with normal motor conduction studies of both lower extremities. A second FCE was performed on 9/11/02. \_\_\_\_\_, designated doctor, found that \_\_\_\_\_ was at MMI on 12/5/02 and assigned him a 0% impairment rating. \_\_\_\_\_ opined that \_\_\_\_\_ injury was a soft tissue injury, such as a lumbar sprain/strain.

#### DISPUTED SERVICES

Under dispute is the medical necessity of the work hardening program, office visits, MMI/IR report review and FCEs.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

This patient's initial diagnosis included thoracic facet syndrome, lumbar facet syndrome, spasm of muscle, sprain or ribs, and pain in the thoracic spine. A radiographic report was noted to display mild spondylosis at T10/11 and early DJD at L2/3 and L3/4. Electrodiagnostic testing revealed a prolonged dermatosensory latency of the bilateral L5/S1 with normal motor conduction studies of both lower extremities.

The reviewer finds that the disputed services were indeed medically necessary and appropriate, as there was demonstrated improvement from the rehabilitation services provided.

The FCE performed on 9/11/02 revealed that the patient could function at a light medium physical demand capacity.

The FCE performed on 10/23/02 demonstrated that \_\_\_ could now function at the medium physical demand level.

The FCE demonstrated that the patient's physical performance capacity was at a medium level. The thoracic flexion, thoracic left rotation, thoracic right rotation, and lumbar extension planes of motion decreased in movement. It also demonstrated that the thoracic kyphotic angle, lumbar flexion, lumbar left lateral flexion and lumbar right lateral flexion planes of motion increased in movement.

There is evidence that the work hardening was pre-certified and therefore determined to be medically necessary. The documentation provided indicates that this patient was provided with this care. Some work hardening HCFAs were stamped, "OK to pay" and some were stamped "do not pay." The work hardening was already determined to be medically necessary at the time of pre-certification.

The diagnostic testing of the FCEs is absolutely necessary to determine the functional capacity and abilities of the patient to return to work. This is consistent with the TWCC Medical Fee Guidelines.

The office visits provided to this patient are consistent with the TWCC guidelines as well as the Texas Guidelines for Chiropractic Quality Assurance and Practice Parameters for treatment. \_\_\_ required this care and it was demonstrated by the documentation that it helped him.

\_\_\_ is allowed to bill for MMI/IR review, per the TWCC Medical Fee Guidelines.

\_\_\_ 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 \_\_\_, dba \_\_\_, 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,