

MDR: Tracking Number M5-03-2197-01

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 work hardening program and FCE were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these work hardening program and FCE charges.

This Finding and Decision is hereby issued this 21st day of July 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 1/7/03 through 2/10/03 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.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division

DRM/ /crl

NOTICE OF INDEPENDENT REVIEW DECISION

July 8, 2003

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
4000 South IH-35, MS 48
Austin, TX 78704-7491

RE:

MDR Tracking #: M5-03-2197-01
IRO Certificate #: IRO 4326

___ 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 rendered 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___ health care professional 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

This patient injured herself on ___ while picking up a heavy rug and trying to re-stock it. She felt pain in her neck, shoulders, and low back and saw a chiropractor for initial treatment and therapy.

Requested Service(s)

Work hardening program and functional capacity evaluation (FCE) from 01/07/03 through 02/10/03

Decision

It is determined that the work hardening program and functional capacity evaluation (FCE) from 01/07/03 through 02/10/03 were medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The medical record reviewed reflects a musculoskeletal injury that is more functionally limiting than what is realized. As of 09/27/02, the carrier has been in denial of a sustainable injury to the right shoulder and the cervico-thoracic region.

The mechanism of injury outlined in the medical record is consistent with a plausible injury occurrence to the right shoulder and cervico-thoracic region. The lifting of a heavy rug from ground level is a dynamic motion; it is not feasible to believe that this strenuous movement would only pathologically stress the lumbar region. Continued focus on the lumbar region alone and not the dynamic chain in its totality will continue to adversely affect this patient's rehabilitative outcomes.

The provider ordered a FCE on 12/13/02 that demonstrated that the patient possessed true limitations. These limitations would not be alleviated by the continued application of passive applications. Deficits in the patient's physical demands levels (PDL) were shown with a 12/13/02 work capacity of sedentary (utilizing the Dictionary of Occupational Titles). It is not logical to believe that the patient would be able to perform light/medium job related demands when she is operating at a sedentary PDL.

Terminal FCE on 02/10/03 shows that the patient is capable of a light/medium PDL that complies with her work requirements.

Presence of poor biomechanics, movement anxiety, and decreased muscle strength warranted transition of this patient to an upper level of therapeutics like work hardening. Functional testing is a vital component of any upper level therapeutic and remains warranted and appropriate in this case. Therefore, it is determined that the work hardening program and functional capacity evaluation (FCE) from 01/07/03 through 02/10/03 were medically necessary.

The aforementioned information has been taken from the following guidelines of clinical practice and clinical references:

- *Clinical practice guidelines for chronic, non-malignant pain syndrome patients II: An evidence-based approach.* J Back Musculoskeletal Rehabil 1999 Jan 1;13;47-58.
- *Overview of implementation of outcome assessment case management in the clinical practice.* Washington State Chiropractic Association; 2001. p54.
- *Unremitting low back pain. In: North American Spine Society phase III clinical guidelines for multidisciplinary spine care specialists.* North American Spine Society (NASS); 2000. 96p.

Sincerely,