

MDR Tracking Number: M5-03-2426-01

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. The dispute was received on 6-2-03.

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(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** 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 CARF-Accredited work conditioning program and the FCE from 6-3-02 through 8-16-02 were found to be medically necessary. The office visits; therapeutic exercises, and group therapeutic exercises from 9-3-02 through 9-13-02 were not found to be medically necessary. The respondent raised no other issues for denying reimbursement for the above listed services.

The above Findings and Decision are hereby issued this 16th day of October 2003.

Dee Z. Torres
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 6-3-02 through 8-16-02 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 16th day of October 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

October 6, 2003

Re: IRO Case # M5-03-2426-01

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Physical Medicine and Rehabilitation, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting 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 referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient was injured on ___ when he was pushing a steel beam with his right hip. He later began experiencing pain in his right leg and back. A decompressive foraminotomy was performed on 2/11/02. The patient then completed eight weeks

of post-operative physical therapy. An FCE on 5/24/02 rated the patient at a medium physical demand level. The patient then underwent eight weeks of work conditioning, and an FCE on 7/22/02 rated him at a heavy physical demand level, with the ability to lift 100 pounds infrequently and 50 pounds frequently. The patient was returned to his surgeon for a follow-up and was released to work with restrictions, including a restriction against lifting any baseplates. The patient's employer stated the patient could not return to work with restrictions, but only for full duty. Therefore, the patient was returned to work conditioning. Following two more weeks of work conditioning the patient returned to physical therapy for an additional two weeks to work on lower extremity strength and range of motion.

Requested Service(s)

Office visit, therapeutic procedures, group therapeutic procedures, FCE, work conditioning 6/3/02-9/13/02

Decision

I disagree with the carrier's decision to deny the requested services for the dates 6/3/02-8/16/02.

I agree with the decision to deny the services for the dates 9/3/02-9/13/02

Rationale

Based on the records provided for this review, at the conclusion of the initial work conditioning program, the patient's surgeon determined that the patient was not capable of lifting amounts that would be required on the patient's job. The employer stated that the patient would not be allowed to return to work without a release of the restrictions, according to the records. Therefore, the patient was returned to work conditioning for two more weeks to continue to progress with the goal of a return to work without restrictions. The work conditioning program was medically necessary to return the patient to full duty. The FCEs were medically necessary to document the patient's ability to return to work.

Following completion of the work conditioning program, the patient returned to physical therapy to work on lower extremity strengthening. No documentation was submitted for this review that supports the medical necessity of a return to physical therapy following eight weeks of post-operative physical therapy and 10 weeks of work conditioning.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,