

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-03-4643.M5**

MDR Tracking Number: M5-03-2444-01

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening and second FCE were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that the work hardening and FCE fees were the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 6/3/02 to 6/14/02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 31<sup>st</sup> day of July 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

CRL/crl

July 24, 2003

IRO Certificate# 5259  
MDR Tracking Number: M5-03-2444-01

An independent review of the above-referenced case has been completed by a medical physician [board certified] in physical medicine and rehabilitation. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by \_\_\_\_, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_.

CLINICAL HISTORY

This is a gentleman who sustained a medical meniscal tear on \_\_\_. Two months later the meniscal lesion was addressed surgically. Post-operatively, there was reportedly routine physical therapy and rehabilitation. Within six weeks of surgery a referral was made for a work hardening program. The initial assessment noted that at the time of the assessment the claimant was able to complete "yard work" (assumed to be routine gardening activities). Additionally the claimant reported that he could stand for more than 2 hours at a time, could walk for more than 2 hours at a time and had a normal gait pattern. The goals of this multi-disciplinary program included cardiovascular endurance, increasing posture, and strength. There was no notation of any psychiatric component to this injury, a staple of work hardening programs. The weekly progress notes indicate that a number of exercises and stretches, and activities not related to the reasonable and necessary care of a meniscal injury were completed.

REQUESTED SERVICE (S)

Work Hardening & FCE

DECISION

The six-week work hardening program was not reasonable and necessary treatment for the injury. The original Functional Capacity Examination was reasonable; however there was no clinical indication for a second Functional Capacity Examination. A competent clinical knee physical examination could demonstrate the rehabilitation of the knee injury.

RATIONALE/BASIS FOR DECISION

This was a routine medical meniscus tear. Two months after the injury the claimant was surgically treated. Within six weeks after the surgery, there was a request for a work hardening program. As noted in the March 27, 2003 provider response, the findings were related to the lower extremity. However, the treatment rendered was directed at cardiovascular endurance, posture, and increase in range of motion. The initial range of motion was reported as 130 degrees (which is more than required for an impairment rating under the AMA Guides to the Evaluation of Permanent Impairment, 4<sup>th</sup> edition). The claimant had a perceived functional level of half of the job requirements. This gentleman had a position as an assistant superintendent, which one would think has more administrative responsibilities than manual labor responsibilities. An appropriate response would have been a return to work with appropriate restrictions, assumed to be available to an assistant superintendent. Failing that a modified work conditioning program designed for the specific needs of the rehabilitation of the knee injury sustained. There was no clinical indication of any psychological issues; therefore, there is no

clinical indication for the need for a weekly session of these types of issues. Lastly, the standard is to allow for a return to work not a return to a specific work environment. The treatment plan proposed was excessive, not directed to the injury sustained and was not reasonable and necessary for the injury suffered.