

MDR Tracking Number: M5-03-2673-01

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 6-20-03.

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 FCE and work hardening program on 8-8-02 through 10-11-02 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these services.

The above Findings and Decision are hereby issued this 2<sup>nd</sup> day of September 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 8-5-02 through 10-11-02 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 2<sup>nd</sup> day of September 2003.

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

DRM/dzt

August 26, 2003

Re: MDR #: M5-03-2673-01  
IRO Certificate No.: 5055

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Certified in Physical Medicine and Rehabilitation.

**Clinical History:**

This 56-year-old male claimant suffered a work-related injury to his knee on \_\_\_\_. An MRI after the injury indicated a medial meniscus tear and he had surgery. He did not recover from this surgery and had a second surgery on 01/24/02. The diagnoses at that time included an anterior cruciate ligament tear, posterior cruciate ligament tear, anterior horn tear of the lateral meniscus, anterior horn tear of the medial meniscus, chondromalacia of the patella and lateral femoral condyles, a previous osteotomy of the tibial eminence, and tibial eminence spur; also, a loose body with hypertrophic areas of scarring and fibrosis. There were very extensive injuries noted at the time of his surgery.

After his surgery, he was still having some Synvisc injections, i.e., still having some knee problems. He was being given glucosamine and chondroitin and it seems he did not have a good result from the surgery, despite the extensive amount of rehabilitation which he had. He continued physical therapy three times a week at that time.

**Disputed Services:**

Functional Capacity Evaluation and work hardening program from 08/05/02 through 10/11/02.

**Decision:**

The reviewer disagrees with the determination of the insurance carrier in this case. The Functional Capacity Evaluation and work hardening program from 08/05/02 through 10/11/02 were medically necessary.

**Rationale:**

This gentleman had an extremely extensive amount of damage to his knee. He needed an extensive amount of therapy, the timing was correct when the therapy was ordered, the orthopedic surgeon was kept informed, requested the therapy, and it was not randomly given. It was all aimed at getting the patient back to work.

The therapy was all goal directed. Thus, with the seriousness of the injury, the massive amount of surgery, and with a strictly goal-directed back-to-work program, the work hardening program was indicated and probably the only chance this gentleman had of returning to work in anything reasonably similar to his previous occupation.

According to Texas Labor Code 408:021(a), an employee is entitled to the care reasonably required in association with their injury and the treatment thereof. If the patient's condition is not stable, the care to maintain and promote healing is medically necessary.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,