

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 8-12-03.

The Medical Review 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 program and 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 Medical Review Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service from 10-28-02 through 12-6-02 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 9th day of October 2003.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

DZT/dzt

#### **NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** October 2, 2003

**RE: MDR Tracking #:** M5-03-3246-01  
**IRO Certificate #:** 5242

\_\_\_ 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 proposed 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 Chiropractic physician reviewer that has ADL certification. The Chiropractic physician reviewer 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**

According to the supplied documentation, it appears that the claimant was injured while he lifted a freezer at work on \_\_\_\_\_. The claimant reported to \_\_\_\_\_ on \_\_\_\_\_ for evaluation and treatment. An MRI was performed on 08/30/2002, which revealed mild degenerative disc disease and a broad based protrusion at L4 of approximately 5mm. The claimant underwent chiropractic therapy for approximately 8 weeks. The claimant was seen by \_\_\_\_\_ on 09/26/2002 who stated the claimant was not a surgical candidate and should continue therapy. Several functional capacity exams were performed. \_\_\_\_\_ evaluated the claimant on 12/03/2003 who felt the claimant was stable and had recovered. The claimant underwent a work hardening program which lasted 8-weeks. The claimant was seen by \_\_\_\_\_ who felt the claimant was at maximum medical improvement on 01/06/2003 with a total whole person impairment of 5%.

### **Requested Service(s)**

Please review and address the medical necessity of the outpatient services including a work hardening program rendered between 10/28/2002 – 12/06/2002.

### **Decision**

I agree with the insurance company that the services rendered between 10/28/2002 – 12/06/2002 were not medically necessary.

### **Rationale/Basis for Decision**

According to the supplied documentation, the claimant underwent approximately 8 weeks of therapy prior to the work hardening program. The initial therapy rendered appeared to adequately improve the claimant to his pre-injury work level. There were multiple functional capacity exams performed that documented improvement in the claimant's work ability. The initial functional capacity exam, prior to the entry into the work hardening program, reported that the claimant was at a light medium capacity. The claimant's job required him to be at a light duty level, which he was capable of before entering the work hardening program. Without a work deficit, the claimant's referral for work hardening is not medically reasonable or necessary. The function of a work hardening program is to improve a patient's capacity of working. This was not necessary in this particular case. The claimant was able to return to his normal duties after his 10/24/2003 functional capacity exam and could have continued to improve with limited therapy and a home exercise program. Since the documentation supplied failed to support objectively the rationale for the work hardening, it would not be medically warranted. Continued functional capacity exams were also not necessary, due to the fact the original functional capacity exam on 10/24/2002 put the claimant above his necessary job duties.