



Notice of Independent Review Decision

DATE OF REVIEW: 7/27/07

IRO CASE #:

NAME:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

Determine the medical appropriateness of the previously denied request for work hardening five times a week for two weeks.

A DESCRIPTION OF THE QUALIFICATIONS FOR EACH PHYSICIAN OR OTHER HEALTH CARE PROVIDER WHO REVIEWED THE DECISION

Texas Licensed Chiropractic D.C.

REVIEW OUTCOME

Upon independent review the reviewer finds that the previous adverse determination/adverse determinations should be:

- Upheld (Agree)
- Overturned (Disagree)
- Partially Overturned (Agree in part/Disagree in part)

The previously denied request for work hardening five times a week for two weeks.

INFORMATION PROVIDED TO THE IRO FOR REVIEW

- Notice to CompPartners, Inc. of Case Assignment dated 7/17/07.
- Fax Cover Sheets/Notes/Comments/Treatment Recommendations/Appeal Request dated 7/20/07, 7/17/07, 6/14/07, 6/1/07.

- **Confirmation of Receipt of a Request for a Review by an Independent Review Organization (IRO) dated 7/13/07.**
- **Company Request for Independent Review Organization dated 7/10/07.**
- **Request for a Review by an Independent Review Organization dated 7/2/07.**
- **Determination Notification Letter dated 6/19/07, 6/6/07.**
- **Treatment Recommendation Letter dated 3/28/07.**
- **Follow-Up Visit Note/Letter dated 3/27/07.**
- **Examination Report/Letter dated 1/16/07.**
- **Lumbar Spine MRI dated 12/4/06.**
- **Functional Capacity Evaluation Report dated 5/9/07.**

PATIENT CLINICAL HISTORY [SUMMARY]:

Age:

Gender: Male

Date of Injury:

Mechanism of Injury: Injured the back while bending over working for a pavement company as a laborer.

Diagnosis: Strain; lumbar neuritis; lumbar intervertebral disc (IVD) displacement.

ANALYSIS AND EXPLANATION OF THE DECISION INCLUDE CLINICAL BASIS, FINDINGS AND CONCLUSIONS USED TO SUPPORT THE DECISION

This is a male who sustained a work related injury while working as a laborer for a pavement company in the concrete paving department. He injured his back while bending over. The provided diagnoses included lumbar strain, lumbar neuritis and lumbar IVD displacement. The claimant was evaluated by a neurological specialist, M.D., on 1/16/07 and was determined that he was not a surgical candidate. There was an MRI of the lumbar spine performed on 12/4/06, which revealed a central disc extrusion at L4-5 and a broad based left paracentral disc protrusion at L5-S1. The claimant had been treating with a chiropractic provider, D.C. The claimant had completed at least 12 previous sessions of active rehab and 10 sessions of work hardening to date. Dr. had requested 10 more sessions of work hardening, which were denied by per peer review times two. There were contradicting reasons for the denials. The first on 6/1/07 by, D.C. indicated that the claimant was denied because he has had previous active rehab and 10 sessions of work hardening completed on 4/27/07 and that she did not understand why he waited till 6/1/07 to request more work hardening. She documented that the claimant did have improvements in his strengthening and endurance from the initial work hardening provided. However, she felt he was not likely to improve with more work hardening as he was at medium-heavy duty, per the functional capacity evaluation (FCE) of 5/9/07 for a very heavy demand level. The second was from, D.C. on 6/19/07 for the appeal. He found that the claimant was at a medium heavy duty demand level for a heavy duty job, per the dictionary of occupational titles, and that the FCE on 5/9/07 indicated that the claimant was able to occasionally lift 86 pounds and is therefore lifting in the heavy duty category on most of the lifts. He opined that this claimant should be able to perform his duties at the heavy demand levels and should be able to perform home exercises. This

dispute resolution reviewer has found, per the Department of Labor website dictionary of occupational titles that for laborer concrete paving/construction does show a “very heavy” job demand level indicated, not “heavy” as the previous reviewer, D.C., indicated. The claimant’s employer was contacted on 7/25/07 at 3:30pm, CT for verification of the actual job description and demand levels due to the conflicting information. The reviewer spoke to Paving Company, who verified that he is in the concrete paving department as a laborer and is very heavy duty demand level. Therefore, this dispute resolution is to reverse the non-certification at this time due to the fact the claimant is only able to function at a medium heavy duty job demand level for a very heavy duty job as a laborer for the concrete paving department, and he did show measurable improvements in strengthening and endurance to continue with the work hardening program. This determination would also be within the ODG indicating the appropriate criteria for work hardening for which he meets. The criteria are stated as: “1. Physical recovery sufficient to allow for progressive reactivation and participation for a minimum of 4 hours a day for three to five days a week. 2. A defined return to work goal agreed to by the employer & employee: a. A documented specific job to return to, OR b. Documented on-the-job training 3. The worker must be able to benefit from the program. Approval of these programs should require a screening process that includes file review, interview and testing to determine likelihood of success in the program. 4. The worker must be no more than 2 years past date of injury. Workers that have not returned to work by two years post injury may not benefit. 5. Program timelines: Work Hardening Programs should be completed in 4 weeks consecutively or less.” The determination is also supported by the Department of Labor website dictionary of occupational titles for laborer concrete paving construction, as well as the Texas department of insurance and DWC rules and regulations. 10 additional sessions would be reasonable at this time with the available information.

A DESCRIPTION AND THE SOURCE OF THE SCREENING CRITERIA OR OTHER CLINICAL BASIS USED TO MAKE THE DECISION:

- ACOEM – AMERICAN COLLEGE OF OCCUPATIONAL & ENVIRONMENTAL MEDICINE UM KNOWLEDGEBASE.
- AHCPR – AGENCY FOR HEALTHCARE RESEARCH & QUALITY GUIDELINES.

X DWC – DIVISION OF WORKERS’ COMPENSATION POLICIES OR GUIDELINES.

1) Texas Department of Insurance and DWC rules and regulations. Texas Labor Code 408.021 and specific commission rule TWCC 134.1001 (C) (1) (A) states: The employee is specifically entitled to healthcare that: (1) Cures or relieves the effects naturally resulting from the compensable injury (2) Promotes recovery OR; (3) Enhances the ability of the injured worker to return to or retain employment. 2) http://www.odg-twc.com/odgtwc/low_back.htm#Workconditioningworkhardening 3) Department of labor website for laborer concrete paving/construction <http://www.occupationalinfo.org/86/869687026.html> CODE: 869.687-026 TITLE(s):

CONSTRUCTION WORKER II (construction) concrete paving laborer GOE:
05.12.03 STRENGTH: V GED: R2 M1 L1 SVP: 2 DLU: 79

- EUROPEAN GUIDELINES FOR MANAGEMENT OF CHRONIC LOW BACK PAIN.
- INTERQUAL CRITERIA.
- MEDICAL JUDGEMENT, CLINICAL EXPERIENCE AND EXPERTISE IN ACCORDANCE WITH ACCEPTED MEDICAL STANDARDS.
- MERCY CENTER CONSENSUS CONFERENCE GUIDELINES.
- MILLIMAN CARE GUIDELINES.
- ODG – OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES.
Official Disability Guidelines, Treatment Index, 5th Edition, 2006/2007 – Back-Work Hardening.
- PRESSLEY REED, THE MEDICAL DISABILITY ADVISOR.
- TEXAS GUIDELINES FOR CHIROPRACTIC QUALITY ASSURANCE AND PRACTICE PARAMETERS.
- TEXAS TACADA GUIDELINES.
- TMF SCREENING CRITERIA MANUAL.
- PEER REVIEWED NATIONALLY ACCEPTED MEDICAL LITERATURE (PROVIDE A DESCRIPTION).
- OTHER EVIDENCE BASED, SCIENTIFICALLY VALID, OUTCOME FOCUSED GUIDELINES (PROVIDE A DESCRIPTION).

CompPartners, Inc. hereby certifies that the reviewing physician or provider has certified that no known conflicts of interest exist between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for the decision before the referral to CompPartners, Inc.