

# P&S Network, Inc.

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**DATE OF REVIEW:** 07/17/2007

**IRO CASE #:**

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

This case was reviewed by a Chiropractor. The reviewer has signed a certification statement stating that no known conflicts of interest exist between the reviewer and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent (URA), any of the treating doctors or other health care providers who provided care to the injured employee, or the URA or insurance carrier health care providers who reviewed the case for a decision regarding medical necessity before referral to the IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

**DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE:** Work hardening therapy from September 18, 2006 through November 3, 2006

**REVIEW OUTCOME:** PARTIALLY OVERTURNED to certify work hardening from September 18, 2006 through Sept 28, 2006

## **REVIEW OF RECORDS:**

- o Submitted medical records were reviewed in their entirety. Approximately 4 inches of medical records were submitted for review.
- o September 18, 2006 through November 3, 2006 billing records from Physicians Network
- o September 14, 2006 report by M.D.
- o August 14, 2006 lumbar spine MRI report by M.D.
- o October 31, 2006 billing retrospective review and billing records from Reviews Inc.
- o May 16, 2007, June 18, 2007 letters from the Texas Department of Insurance to Center
- o May 7, 2007 letter from to the Texas Department of Insurance
- o April 16, 2007 complaint letter to the Texas Department of Insurance from Center
- o December 27, 2006 request for reconsideration letter from for Center
- o December 27, 2006 response to retrospective review from D.C. for Center
- o Multiple inches of medical records and billing from Center between the dates of service of July 2006 and November 2006

**CLINICAL HISTORY SUMMARY:** The patient is a male who sustained an industrial injury with a chief complaint of back pain radiating to the right leg to the bottom of the foot. He reported complaints of numbness and burning pain as well. On September 14, 2006 he was diagnosed with a herniated nucleus pulposus at L4-5 with radiculopathy and lumbago. He was instructed to continue with physical therapy and sent for epidural steroid injections.

A lumbar spine MRI was performed on August 14, 2006 which most significantly revealed a large right paracentral disc extrusion at L4-5 with subligamentous extension of disc material behind the posterior aspect of the L5 vertebra. The extruded disc material impinged upon the thecal sac and the right L5 nerve root in the lateral recess. Small annular tears were noted from L3-4 through L5-S1.

According to an October 31, 2006 billing review report, the patient was initially seen by Dr. in July 2006 and received at least three months of ongoing therapy through September 2006. On August 25, 2006, the patient underwent an FCE that found him at about the medium level, while the patient required work at a medium heavy level. A September 11, 2006 FCE produced results of a light medium physical demand level. By September 28, 2006, the patient had reportedly attained a level of medium heavy which met his work requirements, however the recommendation was to continue work hardening program. This report notes that it would appear that the patient was not working and that he had the same job to return to. The reviewer opined that the patient had achieved the goals of returning to a medium heavy level by the second week of work hardening.

A letter to the insurance carrier from the providers office argues that the denial was based on a lack of information and not the treatment itself. The letter notes that in regard to the patient's "medium heavy level" required by his job, the provider called the employer on September 13, 2006 and after not receiving the job description, sent a fax but had not received a reply to that date.

Therefore, it appears that the issue of the patient's work requirements are in question. The letter states that the reviewing physician had actually approved a minimum of two weeks of work hardening but the carrier did not pay for those weeks. Regarding the allegation that the patient had met the treatment goals by the second week of work hardening, the letter states that the provider had showed that the findings at the end of the second week were in error and why they were in error.

A December 27, 2006 letter from the provider's office states that the test results were flawed by the use of medication and upon re-examination and testing. It was found that the patient had not made the gains initially reported by the end of the second week and the patient was not medically stable. It was determined at that time that additional therapy would be required. A December 27, 2006 response to the retrospective review letter explains that the patient had attained a medium to heavy physical demand level on an FCE dated September 28, 2006. However, it was noted that the patient later related his use of narcotic medication prior to the test and the following day, the patient reported with moderate elevations in low back and right lower extremity pain consistent with his injury. A collective decision was apparently made to extend the patient's program and additional two weeks secondary to his exacerbation in symptomatology. The following week the patient was provided a functional capacity evaluation without medication for which he did not demonstrate the functional capacity to return back to his place of employment at a medium to heavy physical demand level. According to the Job Strength Rating, the patient's performance would put him at a very high risk of reinjury. He demonstrated stability in his condition on November 20, 2006 as he demonstrated on a physical performance evaluation and was released back to work full duty and without restriction.

It should be noted that in an August 31, 2006 clinical interview report, the patient states that his job is still available to him. He was provided with various psychologic diagnoses that appeared to be somewhat benign. An August 25, 2006 functional abilities evaluation includes a description of the patient's job duties which state that the pushing and pulling status for his job is medium to heavy, in addition to the lifting status. Several job duties were described such as bending and stooping, squatting, crawling, walking, and reaching overhead. This report notes that the patient's work place did not furnish a job explanation or demands sheet for the testers. As a result, the job description was observed in the ONET and according to this description the patient cannot safely do his job.

Per my review of the functional capacity evaluations in question, the August 25, 2006 FCE report states that the pushing and pulling status and the lifting status for the patient's job is medium to heavy. The report states that the patient is lifting overall in the medium category. A September 11, 2006 states that the patient is lifting overall in the heavy lifting category. The report notes objective improvement in range of motion, static strength, lifting, Hamilton Depression Breaking, Epic lifting, and NIOSH. This report recommends continuation of work hardening.

A September 28, 2006 report states that the patient was lifting overall in the medium to heavy category. Objective improvement was noted in all the same areas the addition of manual muscle testing, Dallas pain questionnaire, and Oswestry low back index. It should be again noted that this FCE is the test that the provider had stated was in error due to narcotic utilization.

On October 13, 2006, the patient underwent another FCE and was found to be lifting in the medium lifting category. This would be approximately two weeks following the September 28, 2006 FCE. The report states that the patient is currently experiencing no pain during dynamic lifting test and reports no lumbar axial pain. The report notes that according to the job strength rating, the patient is at high risk for repeat injury. He made objective improvement in several areas. The report notes that patient could not safely complete the 35 to 75 pound medium to heavy while performing the PILE lifting task.

An October 26, 2006 FCE a report states that the patient is not ready to return to work and is at high risk for reinjury. The report notes that patient could not safely complete the 35 to 75 pound medium to heavy while performing the PILE lifting task. It states that this indicates that the patient should be listed in the medium lifting category.

Finally, a November 2, 2006 FCE report states that the patient is listed in the heavy lifting category. It should be noted that the first page of each functional capacity evaluation report states "right now the patient has not been prescribed medication." However, there are indications in the medical records that the patient was taking tramadol and naproxen, among possibly other medications. In reviewing the daily chart notes around the time of the September 28, 2006 FCE, the patient filled out a questionnaire on September 26, 2006 which states that he is taking no over-the-counter medication and he did not indicate any prescription medication that he was taking. Likewise, a September 28, 2006 questionnaire also includes a denial of medication usage by the patient. On September 29, the patient denied taking medication.

**ANALYSIS AND EXPLANATION OF DECISION:** The voluminous records in this case contain several inconsistencies. There are indications in the records that the patient had taken medication including tramadol and naproxen. However, the provider repeatedly stated in each functional capacity evaluation report that the patient has not been prescribed medication. In addition, the patient reported similar information in repeated patient questionnaires around the FCE date in question of September 28, 2006. After reviewing the extensive medical records, I do not see notations in the records that the patient admitted to narcotic utilization during the September 28, 2006 evaluation. In addition, although the September 28, 2006 FCE showed a medium to heavy physical demand level, whether in error or not, the provider continued to recommend work hardening in that same report. Further, the Official Disability Guidelines recommend that work hardening programs be no longer than four weeks in duration. Given the inconsistent information in the medical records and the Official Disability Guidelines opinion, I recommend certification of work hardening from September 18, 2006 through September 28, 2006 only.

The IRO's decision is consistent with the following guidelines:

**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
- \_\_\_\_\_ DWC- DIVISION OF WORKERS COMPENSATION POLICIES OR GUIDELINES
- \_\_\_\_\_ 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
- \_\_\_\_\_ PRESSLEY REED, THE MEDICAL DISABILITY ADVISOR
- \_\_\_\_\_ TEXAS GUIDELINES FOR CHIROPRACTIC QUALITY ASSURANCE & PRACTICE PARAMETERS
- \_\_\_\_\_ TEXAS TACADA GUIDELINES
- \_\_\_\_\_ TMF SCREENING CRITERIA MANUAL
- \_\_\_\_\_ PEER REVIEWED NATIONALLY ACCEPTED MEDICAL LITERATURE (PROVIDE A DESCRIPTION)
- \_\_\_\_\_ OTHER EVIDENCE BASED, SCIENTIFICALLY VALID, OUTCOME

Official Disability Guidelines 5th Edition 2006/2007 Work conditioning, work hardening  
Recommended as an option, depending on the availability of quality programs, and should be specific for the job individual is going to return to. Physical conditioning programs that include a cognitive-behavioral approach plus intensive physical training (specific to the job or not) that includes aerobic capacity, muscle strength and endurance, and coordination; are in some way work-related; and are given and supervised by a physical therapist or a multidisciplinary team, seem to be effective in reducing the number of sick days for some workers with chronic back pain, when compared to usual care. However, there is no evidence of their efficacy for acute back pain. (Schonstein-Cochrane, 2003) Multidisciplinary biopsychosocial rehabilitation has been shown in controlled studies to improve pain and function in patients with chronic back pain. However, specialized back pain rehabilitation centers are rare and only a few patients can participate in this therapy. It is unclear how to select who will benefit, what combinations are effective in individual cases, and how long treatment is beneficial, and if used, treatment should not exceed 2 weeks without demonstrated efficacy (subjective and objective gains). (Lang, 2003) Work Conditioning should restore the client's physical capacity and function. Work Hardening should be work simulation and not just therapeutic exercise, plus there should also be psychological support. Work Hardening is an interdisciplinary, individualized, job specific program of activity with the goal of return to work. Work Hardening programs use real or simulated work tasks and progressively graded conditioning exercises that are based on the individual's measured tolerances. (CARF, 2006) (Washington, 2006) Use of Functional Capacity Evaluations (FCE's) to evaluate return-to-work show mixed results. See the Fitness For Duty Chapter. See Physical therapy for the recommended number of visits for Work Conditioning. For Work Hardening see below.

Criteria for admission to a Work Hardening Program:

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 or less.