

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, 133.307 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. This dispute was received on 08-26-04.

The IRO reviewed work hardening rendered from 09-29-03 through 10-07-03 that was denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 12-30-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

Review of CPT code 97545-WH dates of service 09-29-03, 10-01-03, 10-03-03, 10-07-03, 10-10-03, and 10-13-03 revealed that neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

Review of CPT code 97546-WH dates of service 10-08-03, 10-09-03, 10-10-03, 10-15-03 and 10-16-03 revealed that neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. Per Rule 133.307(e)(3)(B) the respondent did not submit EOBs as required. No reimbursement is recommended.

CPT code 97545-WH dates of service 09-30-03, 10-06-03, 10-08-03, 10-09-03, 10-14-03, 10-15-03, 10-16-03 and 10-17-03 denied with denial code "N" (documented services do not meet minimum fee guideline and/or rules contained within the applicable AMA CPT/HCPCS coding guidelines). The requestor did not provide documentation for review. Per Rule 133.307(g)(3)(B) no reimbursement recommended.

CPT code 97546-WH dates of service 09-30-03, 10-06-03, 10-07-03, 10-13-03, 10-14-03 and 10-17-03 denied with denial code "N" (documented services do not meet minimum fee guideline and/or rules contained within the applicable AMA CPT/HCPCS coding guidelines). The requestor did not provide documentation for review. Per Rule 133.307(g)(3)(B) no reimbursement recommended.

This Findings and Decision is hereby issued this 21st day of January 2005.

Debra L. Hewitt

Medical Dispute Resolution Officer

Medical Review Division

DLH/dlh

Enclosure: IRO Decision

October 18, 2004

ROSALINDA LOPEZ  
TEXAS WORKERS COMP. COMMISSION  
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M5-04-4348-01

CLIENT TRACKING NUMBER: M5-04-4348-01//5278

Medical Review Institute of America (MRloA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRloA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRloA has performed an independent review of the case in question to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRloA for independent review.

**Records Received:**

Records received from the State:

- Notification of IRO Assignment, 9/15/04
- Notice from Texas Worker's Compensation Commission, 9/15/04
- Medicals Dispute Resolution Request/Response, 8/28/04
- Table of Disputed Services, 9/29/03 through 10/7/03, seven treatments
- Explanation of Reimbursement forms from 9/29/03 through 10/3/03

Records from Gene Couturier, DC:

- TWCC 69 designated doctor reports, Michael Ciepiela, MD, 5/21/03, 10/8/03
- TWCC 69 designated doctor reports, James Joseph Box, MD, 1/22/03
- Re-evaluations from Gene Couturier, DC, 6/17/04, 5/20/04, 4/21/04
- Physical Performance evaluation, 1/20/04
- Office note from Neil Atlin, DO, 4/20/04
- Office notes dated 6/13/03, 4/28/03, 3/24/03, 12/16/02, 2/14/03 and report dated 1/10/03 from Linden Dillin MD
- Physical therapy prescriptions from Linden Dillin MD, 3/24/03, 5/20/03
- Office note from Scott Oishi, MD, 1/21/03
- Patient progress summary sheets for treatment dates 5/23/03 through 2/5/03, including post surgical treatments

- Functional capacity evaluations dated 3/7/03 and 11/3/03 by Robert West, OTR
- Operative report dated 4/6/04 from Scott Oishi, MD
- NCV and EMG studies, 2/5/03
- Operative report the left shoulder surgery Luiz Toledo, MD, 6/24/02
- MRI reports of the left shoulder, 6/7/02 and 12/12/02
- Patient Information sheet and notes, Luiz Toledo, MD, 5/3/02 – 6/6/02
- Report from Deborah Rabeck, Ph.D. undated, first page missing
- Operative report summary from Linden Dillin MD, 1/8/03
- Peer to peer review from Mike O'Kelley, DC, 10/30/03, with cover letter, 11/5/03
- Evaluations from Mette Hamilton, OTR, 8/5/03
- Functional capacity evaluation, 8/5/03
- Comprehensive Medical Analysis from Austin & Associates, LLC, 11/3/03
- Left rotator cuff operative report from Linden Dillin MD, 6/27/02
- Independent medical re-evaluation, 5/28/03
- Letter from Denise Reyes, Ball Corporation, 11/13/03
- Payment of Compensation or notice of Refused/Disputed Claim form, 10/14/03

**Summary of Treatment/Case History:**

From the available documentation it would appear that this patient was involved in an industrial related injury on \_\_\_ injuring the left shoulder and right forearm. The patient has undergone extensive treatments, studies, procedures, and diagnostic testing including two shoulder surgeries (6/02, 1/03), and manipulation under anesthesia. The patient reached maximum medical improvement on 10/8/03 with a 9 percent whole person impairment rating value.

**Phone Consultation:**

The peer-to-peer review was performed on 10/30/03 and in regards to work hardening indicated the following:

The Work Hardening Program is not reasonable and necessary due to the fact that the claimant does not meet the criteria set forth by the TWCC guidelines in order to enter a work hardening program. Specifically the absence of psychological issues being addressed prior to entering the work hardening program, and the fact that the patient was placed at a sedentary level on the 8/5/03 functional capacity examination for a \_\_\_ date of injury.

**Questions for Review:**

1. Please address medical necessity for work hardening from 9/29/03 through 10/7/03.

**Explanation of Findings:**

The report from Deborah Rabeck, Ph.D. indicated that the examination was a subsequent report for the psychological evaluation initially performed on 10/24/03. Psychological issues were not addressed prior to entering into a work hardening programs in this case. Work hardening sessions from 9/29/03 through 10/7/03 were, therefore, not medically necessary.

**Conclusion – Decision to Not Certify:**

1. Please address medical necessity for work hardening from 9/29/03 through 10/7/03.

Psychological issues were not addressed prior to entering into a work hardening programs in this case. Work hardening sessions from 9/29/03 through 10/7/03 were, therefore, not medically necessary.

**Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:**

Based on current available information on the CARF current web site relative to return to work programs.

**References Used in Support of Decision:**

Milliman and Roberts care Guidelines  
-----

The physician providing this review is a Doctor of Chiropractic. The reviewer is national board certified in Physiotherapy and is certified in Acupuncture. The reviewer is a member of the American Academy of Disability Evaluating Physicians (AADEP) and is on the approved doctor list for the Texas Worker's Compensation Commission. The reviewer has been in active practice for 12 years.

MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIOA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIOA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIOA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

1108634.1

vso