

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 12-17-04.

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, the work hardening each additional hour and the FCE from 3-23-04 through 5-4-04 were not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity 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 are denied and the Medical Review Division declines to issue an Order in this dispute.

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

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision

January 19, 2005

TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
EMPLOYEE:
POLICY: M5-05-1190-01
CLIENT TRACKING NUMBER: M5-05-1190-01 5278

Medical Review Institute of America (MRIoA) 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 MRIoA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA 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 MRIoA for independent review.

Records Received:

Records received from the State:

Notification of IRO assignment dated 1/5/05, 1 page
Letter from TWCC dated 1/5/05, 1 page
Medical dispute resolution request/response, date stamp for receipt from requestor 12/17/04, 5 pages
AccuMed notes dated 4/20/04, 3 pages
Explanation of benefits for dates of service 4/13/04 through 4/21/04, 7 pages
AccuMed notes dated 6/3/04, 5 pages
AccuMed notes dated 5/27/04, 2 pages

Records received from the Provider:

MDR request dated 12/9/04, 11 pages
Letter of medical necessity dated 9/8/04, 11 pages
Medical dispute resolution request/response for disputed dates of 3/23/04 through 5/4/04, 5 pages
Health insurance claim forms for dates 3/23/04 through 5/4/04, 18 pages
AccuMed notes dated 4/20/04, 1 page
Explanation of benefits for dates 4/13/04 through 4/21/04, 7 pages
AccuMed notes dated 6/3/04, 5 pages
AccuMed notes dated 5/27/04, 1 page
Health insurance claim forms for dates 3/23/04 through 5/4/04, 18 pages
Domestic return receipt, undated, 1 page
WC/WH program daily note dated 5/14/04, 1 page
Visit log report dated 5/4/04, 2 pages
Visit log report dated 5/3/04, 2 pages
WC/WH program daily note dated 5/13/04, 1 page
Visit log report dated 4/30/04, 2 pages
WC/WH program daily note dated 4/30/04, 1 page

Visit log report dated 4/29/04, 2 pages
WC/WH program daily note dated 4/29/04, 1 page
Visit log report dated 4/27/04, 2 pages
WC/WH program daily note dated 4/27/04, 1 page
Visit log report dated 4/28/04, 2 pages
WC/WH program daily note dated 4/28/04, 1 page
Visit log report dated 4/26/04, 2 pages
WC/WH program daily note dated 4/26/04, 1 page
WC/WH program daily note dated 4/23/04, 1 page
WC/WH program daily note dated 4/22/04, 1 page
Visit log report dated 4/22/04, 2 pages
Visit log report dated 4/21/04, 2 pages
WC/WH program daily note dated 4/21/04, 1 page
Visit log report dated 4/30/04, 1 page
WC/WH program daily note dated 4/20/04, 1 page
WC/WH program daily note dated 4/16/04, 1 page
Visit log report dated 4/19/04, 2 pages
WC/WH program daily note dated 4/19/04, 1 page
WC/WH program daily note dated 4/15/04, 1 page
Visit log report dated 4/15/04, 2 pages
WC/WH program daily note dated 4/14/04, 1 page
Visit log report dated 4/14/04, 1 page
WC/WH program daily note dated 3/23/04 through 4/13/04, 16 pages
Daily therapy notes dated 3/15/04 through 3/18/04, 1 page
WC/WH program daily note dated 3/22/04, 1 page
Daily therapy notes dated 1/22/04 through 3/12/04, 8 pages
Patient release worksheet, undated, 1 page
Psychology group note dated 4/27/04, 1 page
Case management summary dated 4/27/04 and 5/4/04, 2 pages
Psychology group note dated 4/20/04, 1 page
Case management summary dated 4/20/04, 1 page
Psychology group note dated 4/13/04, 1 page
Case management summary dated 4/13/04, 1 page
Psychology group note dated 4/6/04, 1 page
Case management summary dated 4/6/04 and 3/30/04, 2 pages
Psychology group note dated 3/23/04, 1 page
Case management summary dated 3/23/04, 1 page
Active rehab exercise/fee slip dated 2/18/04 and 3/19/04, 3 pages

Exercise instructions, undated, 6 pages
Office scheduling note dated 4/23/04, 1 page
Fax history reports dated 4/15/04 through 4/23/04, 4 pages
A note from Laticia, Arl Rehab, dated 4/15/04, 1 page
Fax history reports dated 4/14/04, 2 pages
Interim FCE report dated 4/14/04, 9 pages
Functional capacity evaluation informed consent dated 4/14/04, 1 page
Visual pain rating scale and pain diagram, undated, 1 page
Injury impact questionnaire dated 4/13/04, 3 pages
Letter from Sedgwick CMS dated 4/8/04, 2 pages
Note dated 4/30/04, 1 page
Business card from Spinal Solutions, PA, undated, 1 page
Fax history report dated 4/12/04, 1 page
Office scheduling note dated 4/12/04, 1 page
Referral note dated 4/12/04, 1 page
Letter from Dr. ___ dated 2/17/04, 1 page
Fax history report dated 4/5/04, 2 pages
Office scheduling note dated 3/30/04, 1 page
Fax history report dated 3/24/04, 1 page
Patient status report dated 3/22/04, 1 page
Rehab 2112 program policies, dated 3/22/04, 3 pages
Patient orientation and education checklist dated 3/22/04, 5 pages
Let's Get Work SIMIN and Work Order dated 3/22/04, 1 page
Transition to WH report dated 3/19, 1 page
Fax history report dated 3/19/04, 1 page
Impairment rating/FCA billing form dated 3/19/04, 1 page
Status FCE report dated 3/19/04, 9 pages
Functional captiancy evaluation informed consent dated 3/19/04, 1 page
Visual pain rating scale and pain diagram dated 3/19/04, 1 page
Injury impact questionnaire dated 3/19/04, 3 pages
Fax history report dated 3/1/04, 2 pages
Letter from Sedgwick CMS dated 2/25/04, 2 pages
Preauthorization request form dated 2/20/04, 4 pages
Fax history report dated 2/20/04, 1 page
Impairment rating/FCE billing form dated 2/20/04, 1 page
Initial FCE dated 2/20/04, 109 pages
Functional captiancy evaluation informed consent dated 2/20/04, 1 page

Visual pain rating scale and pain diagram, undated, 1 page
Inquiry impact questionnaire dated 2/20/04, 3 pages
Job description request, received 1/23/04, 1 page
Job description request, faxed 1/22/04, 1 page
Authorization for job specific testing dated 6/4/01, 1 page
Protocol for job specific tasks undated, 2 pages
Fax coversheet from LMC dated 1/23/04, 1 page
Fax history report dated 1/22/04, 1 page
FCE appointment form, undated, 1 page
Comprehensive patient examination dated 1/22/04, 1 page
Recommended treatment plan dated 1/22/04, 1 page
Left AROM/right AROM/left MMT/right MMT report dated 1/22/04, 1 page
Joint integrity test dated 1/22/04, 1 page
Fax history report dated 1/22/04, 1 page
Acknowledgement of receipt of notice dated 1/22/04, 1 page
Work program participation intake sheet, undated, 1 page
Current medical problem sheet, undated, 1 page
Medical history form, undated, 1 page
Critical item questionnaire dated 1/22/04, 1 page
PARQ, undated, 1 page
Work/employment information, undated, 1 page
Summary of maximal physical job demands dated 1/22/04, 2 pages
Authorization and assignment of cause of action dated 1/2/04, 1 page
Patient's complaints for investigation and resolution of any allegations, undated, 1 page
Informed consent dated 1/22/04, 1 page
Fee schedule dated 1/22/04, 1 page
Notes dated 1/22/04 through 5/4/04, 2 pages
Prescription for work hardening dated 3/19/04, 1 page
Prescription for functional capacity evaluation and/or test dated 3/19/04, 1 page
Prescription for work hardening dated 3/19/04, 1 page
Prescription for functional capacity evaluation and/or test dated 3/19/04, 1 page
Prescription for work hardening dated 2/20/04, 1 page
Prescription for work hardening dated 2/20/04, 1 page
Fax history report dated 2/20/04, 1 page
Prescription for functional capacity evaluation and/or test dated 2/18/04, 1 page
Prescription for evaluation and/or treat dated 1/22/04, 1 page
Employee's request to change treatment doctors form dated 4/29/04, 1 page
Letter from ___ dated 4/26/04, 1 page
Prescriptions dated 3/8/04, 1 page

Notice of disputed claim and or compensability of a body part dated 1/21/04, 1 page
Patient information dated 1/20/04, 2 pages
Abbreviation list, undated, 1 page
Request of records dated 1/20/04, 1 page
Fax history report dated 4/15/04, 1 page
Texas Workers' Compensation work status report, received 4/16/04, 1 page
Letter from Dr. Mitchell dated 4/1/04, 7 pages
Fax history report dated 4/16/04, 1 page
Fax cover note dated 4/15/04, 1 page
Letter from Dr. Battle dated 3/8/04, 4 pages
Diagnostic report dated 2/16/04, 6 pages
Fax history report dated 1/20/04, 1 page
Diagnosis and treatment sheet dated 12/13/03, 2 pages
Notice of intent to suspend temporary income benefits form dated 4/20/04, 1 page
Fax history report dated 4/22/04, 1 page
Notice of intent to suspend temporary income benefits form dated 4/20/04, 1 page
Texas Workers' Compensation work status report, undated, 1 page
Letter from Dr. Mitchell dated 4/1/04, 7 pages
Patient information dated 12/15/03, 2 pages
Prescription dated 1/14/04, 1 page
Prescription for evaluation and/or treat dated 1/22/04, 1 page
Texas Workers' Compensation work status report, dated 1/15/04, 1 page
Patient information dated 12/15/03, 2 pages
Office report dated 1/12/04, 1 page
Radiology report dated 1/6/04, 1 page
Accident and injury chiropractic referral form dated 1/6/04, 1 page
Accident and injury chiropractic referral form dated 1/2/04, 1 page
Radiology reports dated 12/16/03, 8 pages
MRI scan reports dated 12/19/03, 4 pages
Accident and injury chiropractic referral form dated 1/3/04, 1 page
Intake medical report dated 12/18/03, 3 pages
Authorization for the use or disclosure of protected health care information dated 12/15/03, 2 pages
Admission/registration record dated 12/13/03, 1 page
Emergency physician record dated 12/13/03, 2 pages
Emergency department nursing documentation dated 12/13/03, 2 pages
CT reports dated 12/13/03, 2 pages
Lab reports dated 12/13/03, 2 pages
Patient form 12/13/03, 1 page

Automatic cover sheet dated 12/15/03, 1 page
Employee's notice of injury or occupational disease and claim for compensation, undated, 1 page
MRI report dated 12/15/03, 1 page
Receipts from Walgreens dated 12/18/03, 3 pages
Fax transmittal sheet dated 12/23/03, 1 page
Letter from Sedgwick dated 12/19/03, 1 page
Texas Peace Officer's accident report dated 12/13/03, 4 pages
Acknowledgement of receipt of notice dated 12/15/03, 1 page
Workers' Compensation tracker sheet dated 12/13/03, 1 page
Fax transmittal sheet dated 12/16/03, 1 page
Texas Workers' Compensation work status report dated 12/15/03, 1 page
Employee's request to change treating doctors, undated, 1 page
Fax transmittal sheet dated 12/16/03, 1 page
Employee's notice of injury or occupational disease and claim for compensation, undated, 1 page
Accident and injury chiropractic referral form, undated, 1 page
Authorization for the use or disclosure of protected health care information, dated 12/15/03, 2 pages
Discharge instructions dated 12/13/03, 3 pages
Common ICD0 codes dated 12/15/03, 2 pages
Treatment plan dated 12/15/03, 1 page
Work Comp file order, undated, 1 page
Cervical ROM exercises dated 1/2/03 through 1/19/04, 1 page
Lumbar ROM exercises, undated, 1 page
Patient satisfaction survey dated 1/20/04, 1 page
Musculoskeletal examination dated 1/20/04, 1 page
Extremity examination dated 1/20/04, 1 page
Daily progress notes dated 1/6/04 through 1/19/04, 8 pages
Correction sheet dated 1/6/04, 1 page
Daily progress notes dated 1/2/04 and 1/5/04, 2 pages
Patient satisfaction survey dated 12/30/03, 1 page
Musculoskeletal examination dated 12/30/03, 1 page
Extremity examination dated 12/30/04, 1 page
Daily progress notes dated 12/16/03 through 12/29/03, 11 pages
Instruction sheet for the patient with a minor closed head injury dated 12/15/03, 1 page
Musculoskeletal examination dated 12/13/03, 1 page
Extremity examination dated 12/13/04, 1 page
Internal radiographic reports dated 12/16/03 and 1/10/04, 2 pages
Notification of non-pregnancy, undated, 1 page
Insurance information, undated, 1 page

Radiology fee schedule dated 12/15/03, 2 pages
Authorization and assignment of benefits and cause of action dated 12/15/03, 1 page
Outline of procedures for the new patient, undated, 1 page
Informed consent dated 12/15/03, 1 page
Questionnaire, undated, 1 page
Personal history, undated, 2 pages
PI personal history, undated, 2 pages
Consultation, undated, 4 pages
Copy of Texas Department of Public Safety Commercial Driver License, expiration dated 7/29/07, 1 page

Summary of Treatment/Case History:

The claimant underwent diagnostic imaging, FCEs, physical medicine treatments and a work hardening program after sustaining injury in a motor vehicle accident on ____.

Questions for Review:

Was the work hardening program (#97545-WH-CA work hardening and #97546-WH-CA work hardening each additional hour) from 3/23/04 through 5/4/04 and the 4/14/04 FCE (#99750-FC functional capacity evaluation) medically necessary to treat this patient's injury?

Explanation of Findings:

Was the work hardening program (#97545-WH-CA work hardening and #97546-WH-CA work hardening each additional hour) from 3/23/04 through 5/4/04 and the 4/14/04 FCE (#99750-FC functional capacity evaluation) medically necessary to treat this patient's injury?

No. In the preamble of the Texas Workers Compensation Commission's amendments to rule 134.600, the Commission states as follows: "Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers' compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop" (reference 1). In its report to the legislature, the Research and Oversight Council on Texas Workers' Compensation explained its higher costs compared to other health care delivery systems by stating, "Additional differences between Texas workers' compensation and Texas group health systems also widen the cost gap. These differences include...in the case of workers' compensation, the inclusion of costly and questionable medical services (e.g., work hardening/conditioning)" (reference 2). In this case, the provider's work hardening program is just the type of questionable services of which the

TWCC and the legislature spoke when expressing concern in regard to medically unnecessary treatments that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs.

Therapeutic exercises may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home, with the least costly of these options being a home program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the records have failed to establish why the services were required to be performed one-on-one when current medical literature states, "...There is no strong evidence for the effectiveness of supervised training as compared to home exercises. There is also no strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care" (reference 3). The literature further states "...that there appears to be little scientific evidence for the effectiveness of multidisciplinary biopsychosocial rehabilitation compared with other rehabilitation facilities..." (reference 4). A systematic review of the literature for a multidisciplinary approach to chronic pain found only 2 controlled trials of approximately 100 patients, with no difference found at 12-month and 24-month follow-up when multidisciplinary team approach was compared with traditional care (reference 5). Based on those studies and absent any documentation that the work hardening treatment was beneficial, it was not medically necessary.

The records also failed to substantiate that the disputed treatment fulfilled the statutory requirements (reference 6), since the patient obtained no relief, promotion of recovery was not accomplished (the slight ROM gains obtained in this time period would have likely been achieved through performance of a home program), and there was no enhancement of the employee's ability to return to employment. In fact, the records indicate that the patient's pain remained as "sharp" and at 6/10 or 7/10 from the initiation of the disputed treatment on 3/23/04 until the termination of treatment on 5/4/04. The medical necessity of the 4/14/04 FCE is not supported, since the patient's "change of treating doctor" request of 4/26/04 documented that the provider had been repeatedly advised that he was getting worse.

Conclusion/Decision to Not Certify:

Was the work hardening program (#97545-WH-CA work hardening and #97546-WH-CA work hardening each additional hour) from 3/23/04 through 5/4/04 and the 4/14/04 FCE (#99750-FC functional capacity evaluation) medically necessary to treat this patient's injury?

No.

References Used in Support of Decision:

1. 26 Tex. Reg. 9874 (2001)
2. "Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers' Compensation System," Research and Oversight Council on Workers' Compensation, Report to the 77th Legislature, page 6.
3. Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.
4. Karjalainen K, Malmivaara A, van Tulder M, Roine R, Jauhiainen M, Hurri H, Koes B. Multidisciplinary biopsychosocial rehabilitation for neck and shoulder pain among working age adults. Cochrane Database Syst Rev. 2003;(2):CD002194.
5. Karjalainen K, et al. Multidisciplinary rehabilitation for fibromyalgia and musculoskeletal pain in working age adults. Cochrane Database of Systematic Reviews 2000;2.
6. Texas Labor Code 408.021

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has written numerous publications and given several presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty-five years.

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.

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