

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER: 453-05-5861.M5

MDR Tracking Number: M5-05-1421-01

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 12-6-04.

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 from 9-7-04 through 9-17-04 was 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 7th day of April, 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision

**IRO Medical Dispute Resolution M5 Retrospective Medical Necessity
IRO Decision Notification Letter**

Date:	4/5/05 4/6/05 (Amended)
Injured Employee:	
MDR #:	M5-05-1421-01
TWCC #:	
MCMC Certification #:	5294

REQUESTED SERVICES:

Review the request for item in dispute regarding CPT 97545 WH work hardening, 97546 WH work hardening-each add hour. Denied by carrier for peer review with "U" codes.

Dates of Service in Dispute: 09/07/2004 through 09/17/2004

DECISION: UPHELD

MCMC llc (MCMC) is an Independent Review Organization (IRO) that has been selected by The Texas Workers' Compensation Commission (TWCC) to render a recommendation regarding the medical necessity of the above disputed service.

Please be advised that a MCMC Physician Advisor has determined that your request for an M5 Retrospective Medical Dispute Resolution on 2/15/05, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity of the services listed above during the dates of service in question is not established.

CLINICAL HISTORY:

Records indicate that the above-captioned individual, a 45-year-old male, was allegedly involved in an occupational incident that reportedly occurred on _____. The history reveals that the above-captioned individual was working as an electrician and sustained injuries to his left shoulder while pulling wires through a conduit. He was initially treated in a Concentra clinic where he received medication management and physical therapy. The injured individual changed doctors and initiated care with the current provider on or about 06/11/2003. An MRI was performed on 06/20/2003, which indicated a tear of the rotator cuff. Surgery was eventually performed on 03/12/2004. Physical therapy and/or work hardening were initiated shortly after surgical discharge. This course of post-surgical rehabilitation was discontinued on or about 07/02/2004. The injured individual then resumed post-surgical rehabilitation under the oversight of the current Attending Provider (AP) on 08/09/2004 which lasted through 09/17/2004. An FCE was performed on 08/05/2004, which identified functional limitations in regards to lifting and ranges of motion. A follow-up FCE was performed on 09/24/2004 at which time the injured individual was released for a medium/heavy physical demand level type of work.

RATIONALE:

Firstly, it is not established within the documentation that this injured individual was an obvious candidate for the application of a multi-disciplinary type program such as work hardening. Specifically, the 08/05/2004 FCE presumably represents the initial FCE. There is an anecdotal reference to a brief battery of psychological tests, however the identity of these tests as well as the observed results remain unknown and excluded from the documentation. The American Physical Therapy Association recommends that the initiation of a work hardening program, which commences a year or more post-injury, should be preceded by a multi-disciplinary evaluation to determine potential effectiveness and pitfalls. Given the fact that there is no demonstration of psychosocial factors that were potentially impeding progress, the medical necessity for work hardening is not established.

Secondly, typical standards of practice would be for the inclusion of an interim functional assessment to determine efficacy and progress. The FCE dated 08/05/2004 does not clearly establish that a work hardening program of some seven weeks would be clearly medically necessary. An interim FCE or abbreviated functional assessment should have been performed between week two and week four, however, the documentation does not include such an assessment. Therefore, there is no clear demonstration of progress through the first month of the program. Furthermore, from a retrospective standpoint, the documentation does not clearly demonstrate that significant progress was achieved as a direct result of the work hardening program. Specifically, comparative data obtained from the two FCEs mentioned above, generally indicate minimal progress through the course of work hardening. However, some of the raw data is somewhat equivocal, as some values actually regressed through the seven week course of work hardening. Furthermore, some validity tests and coefficients of variation indicated invalid or equivocal results bringing into question issues pertaining to somatization and/or submaximal effort. At best, these results have some issues with reliability and reproducibility.

Given the lack of clearly defined psychosocial issues, the lack of interim functional assessment and in the absence of clearly demonstrable progress, the medical necessity of the work hardening program pertaining to dates of service from 09/07/2004 through 09/17/2004 is not established.

RECORDS REVIEWED:

- TWCC Notification of IRO Assignment dated 2/15/05
- TWCC MR-117 dated 2/15/05
- TWCC-60
- Work Perfect Houston: Letter to TWCC from Dr. Rabbani dated 3/22/05, 12/1/04, 12/14/05, 12/22/04; letter to MCMC dated 3/4/05; Letter to AIG Claim Services from Dr. Rabbani dated 11/1/04; Discharge Functional Capacity Evaluation dated 9/24/04; Functional Capacity Evaluation dated 8/5/04; Weekly Conference Report, Assessment and Goals, and Behavioral Health Note dated 8/12/04, 8/19/04, 8/27/04, 9/2/04, 9/16/04
- MedPro Clinics: Letters to Healthsouth from Dr. Rabbani dated 7/12/04, 6/24/04; Letter to Ergonomic Rehabilitation of Houston, LLC from Dr. Rabbani dated 8/2/04; Letter to TWCC from Dr. Rabbani dated 8/4/04, 8/11/04, 8/16/04, 8/24/04; Letters to AIG Claim Services dated 8/5/04, 8/6/04

- Flahive, Ogden & Latson: letter to MCMC dated 3/17/05; Motion to Dismiss letter to TWCC dated 12/22/04; Review of Case M2-02-0845-01 dated 8/8/02 (redacted); Review of Case M5-04-3171-01 dated 8/18/04 (redacted); Decision and Order on Case M5-03-0394-01 dated 6/12/03 (redacted); IRO Decision on Case M5-04-3096-01 dated 8/4/04 (redacted)
- George Medley, MD: medical record review dated 8/12/04;
- AIGCS: Explanation of Review for DOS 9/7/04 through 9/17/04
- Foundation of West Houston Surgical Center: Operative Report dated 3/12/04
- Diagnostic Radiology of Houston: MRI left shoulder without contrast dated 6/19/03

The reviewing provider is a Licensed Chiropractor and certifies that no known conflict of interest exists between the reviewing Chiropractor and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5)).

In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of TWCC on this

6th day of April 2005.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____