

# MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

## Retrospective Medical Necessity Dispute

### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> (X) HCP ( ) IE ( ) IC	<b>Response Timely Filed?</b> (X) Yes ( ) No
Requestor's Name and Address Active Rehab Associates, PA C/o Texas Workers Rehab of Dallas 9400 N McArthur Blvd. Suite 124-621 Irving, Texas 75063	MDR Tracking No.: M5-05-2626-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address American Home Assurance Company Box 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

### PART II: SUMMARY OF DISPUTE AND FINDINGS

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
06-10-04	06-29-04	Work hardening	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### PART III: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

Per Rule 133.308(e)(1) dates of service 03-18-04 through 04-22-04, 04-28-04, 04-29-04, 05-05-04 and 05-06-04 were not timely filed and will not be a part of the review.

The Division has reviewed the enclosed IRO decision and determined that the requestor did **not** prevail on the disputed medical necessity issues.

### PART IV: COMMISSION DECISION

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date of Decision

### PART V: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: \_\_\_\_\_ Date: \_\_\_\_\_

## **PART VI: YOUR RIGHT TO REQUEST A HEARING**

If you are unhappy with all or part of this decision, you have the right to appeal the decision. Those who wish to appeal decisions that were issued during the month of August 2005, should be aware of changes to the appeals process which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas 78744 or faxed to 512-804-4011. A copy of this Decision should be attached to the request.

Beginning September 1, 2005, appeals of medical dispute resolution orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

**Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**

# MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive

Austin, Texas 78738

Phone: 512-402-1400

FAX: 512-402-1012

## NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M5-05-2626-01
Name of Patient:	_____
Name of URA/Payer:	Active Rehab Associates
Name of Provider: (ER, Hospital, or Other Facility)	Active Rehab Associates
Name of Physician: (Treating or Requesting)	Greg Bunting, DC

July 28, 2005

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: Texas Workers Compensation Commission

## CLINICAL HISTORY

Available documentation received and included for review consists of work hardening records from Active Rehab Associates/Texas Workers Rehab including sequential FCE's. Initial injury records including workup, Trinity Medical Center, initial and treating records, dating from August 2002, including Drs. Heier, Levy (M.D.) Schuchman (DC), Bunting (DC), Key (M.D.). Padilla (MD) MRI reports, EMG/NCV reports, Peer review reports from Drs. Osborne (M.D). Tonn (M.D). Hayes (DC) Enkvetchakul (M.D.) Hamby (DC). Des. Dr. reports Marlowe (DC), Blackwell, (DC).

Ms. \_\_\_\_, a 54-year-old female, injured her left ankle when she fell backwards off a ladder after missing a step. She was initially diagnosed with an ankle sprain/strain injury with peroneal tendonitis. She underwent multiple physical therapy sessions with medical care including injections. She eventually progressed to surgery on 12/22/03 which included repair of the peroneus tendon, calcaneofibular and talofibular ligaments. She then underwent further postsurgical rehab, work conditioning and then work hardening.

## REQUESTED SERVICE(S)

Medical necessity of work hardening program, 97545-WHCA, 97546-WHCA, 14 sessions 6/10/04-6/29/04.

## DECISION

Denied.

## RATIONALE/BASIS FOR DECISION

Work hardening involves a multidisciplinary approach and is reserved typically for outliers of the normal patient population, i.e. poor responders to conventional treatment intervention, with significant psychosocial issues and extensive absence from work<sup>(3)</sup>.

*The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. 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 employee to return to or retain employment.*

The patient had undergone extensive conservative care measures, including multiple physical therapy sessions, one-on-one sessions of therapeutic exercises, work conditioning type exercises and so forth. All of these failed to provide any demonstrable improvement. There is little evidence in the records reviewed that the work hardening program deviated very much from what had previously been performed, with little or no improvement demonstrated on sequential functional testing. Additionally the activity and treatment notes throughout this timeframe showed little progress.

As such, medical necessity has not been established for work hardening,

## **References:**

1/ CARF Manual for Accrediting Work Hardening Programs

2/ AMA Guides to the Evaluation of Physical Impairment, 4<sup>th</sup> Edition

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such and may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.