



**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 a refund of the paid IRO fee. The Division hereby **ORDERS** the insurance carrier to remit the appropriate amount for the services in dispute consistent with the applicable fee guidelines totaling \$6,952.00, plus all accrued interest due at the time of payment, to the Requestor within 20-days of receipt of this Order.

Findings and Decision by:

Donna Auby

8-17-05

Ordered by:

Margaret Ojeda

8-17-05

Authorized Signature

Typed Name

Date of Order

**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 en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

August 10, 2005

TEXAS WORKERS COMP. COMMISSION  
AUSTIN, TX 78744-1609

CLAIMANT: \_\_\_\_

EMPLOYEE: \_\_\_\_

POLICY: M5-05-2682-01

CLIENT TRACKING NUMBER: M5-05-2682-01

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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 7/21/05, 49 pages

**RECORDS RECEIVED FROM THE REQUESTOR:**

Letter of medical necessity dated 11/22/04, 9 pages

MDR Request dated 6/7/05, 9 pages

9 page medical dispute resolution request/response

EOB forms, 36 pages

HCFA-1500 forms from Rehab 2112, 30 pages

EOB forms, 46 pages

HCFA-1500 forms from Rehab 2112, 29 pages

Medical records from Accident and Injury Chiropractic, 100 pages

Employer's First Report of Injury or Illness dated 4/7/04

Memo from SRS dated 4/8/04, 1 page

Work hardening program notes, 215 pages

Initial report from Accident and Injury Chiropractic, 5 pages

Cervical MRI study dated 4/21/04, 2 pages

Lumbar MRI study dated 4/21/04, 2 pages

Cervical x-ray report dated 4/23/04

Thoracic x-ray report dated 4/23/04

Lumbar x-ray report dated 4/23/04

Right knee x-ray report dated 4/23/04

Payment of Compensation or Notice of Refused/Disputed Claim dated 5/19/04

Initial evaluation from Pedro Nosnick MD dated 6/1/04, 6 pages

Initial FCE dated 6/9/04

Report from Dr. Nosnick dated 6/22/04

ENG test dated 6/22/04, 7 pages

Request for Benefit Review Conference dated 6/21/04

4 page job description dated 6/22/04

TWCC Memo dated 6/25/04

TWCC memo dated 6/28/04

Interim FCE dated 7/6/04  
Designated doctor evaluation dated 7/13/04, 6 pages  
Job description dated 7/15/04, 5 pages  
Final FCE dated 7/29/04  
Impairment rating evaluation dated 11/18/04, 9 pages  
Report of Medical Evaluation dated 12/16/04  
Report from Dr. Nosnick dated 7/20/04  
Payment of Compensation or Notice of Refused/Disputed Claim dated 6/9/04  
Report from Dr. Nosnick dated 8/17/04  
Report from Dr. Nosnick dated 10/12/04  
Report from Dr. Nosnick dated 11/9/04

### **Summary of Treatment/Case History:**

The patient, a 36-year-old male, was walking in a pastry kitchen and he slipped and fell on a wet floor, striking his head and twisting his right knee. The patient began a course of treatment at Accident and Injury Chiropractic on 4/12/04 and he was treated with passive and active care. The patient underwent a functional capacity evaluation on 6/9/04 and the test revealed the patient was functioning at the light physical demand level and his job required him to function at the medium physical demand level. The patient was placed in a course of work hardening and he was treated on the following dates:

June 2004: 11, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29  
July 2004: 1, 2, 5, 6, 7, 8, 9, 12, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27

The interim functional capacity evaluation dated 7/6/04 indicated the patient was functioning at his job required physical demand level. A final FCE on 7/29/04 revealed no change in the patient's overall physical demand level, which was still at the medium physical demand level.

### **Questions for Review:**

1. Services denied for medical necessity are work hardening 97545-WH-CA and work hardening each additional hour 97546-WH-CA. Dates of service disputed are 6/11/04 through 7/27/04. Are work hardening dates 6/11/04 through 7/27/04 medically necessary?

### **Explanation of Findings:**

1. Services denied for medical necessity are work hardening 97545-WH-CA and work hardening each additional hour 97546-WH-CA. Dates of service disputed are 6/11/04 through 7/27/04. Are work hardening dates 6/11/04 through 7/27/04 medically necessary?

Work hardening services were medically necessary from 6/11/04 through 7/5/04. The patient enrolled in the work hardening program and he was functioning at a level below his job required physical demand level of medium. The interim functional capacity evaluation dated 7/6/04 indicated the patient was functioning at his job required physical demand level, thus continued treatment after 7/5/04 in a work hardening program was not medically necessary.

Beissner et al conducted a study was to identify factors that predict successful work hardening outcomes. Two measures of success were used: return to work and case closure (ie, resolution of medical treatment issues). Persons with spine-related injuries who completed a work hardening program were the subjects. The authors found that three months after program completion, 68% of the subjects had returned to work and 86% had successful case closure. Twelve months after program completion, 77% of the subjects had returned to work and 90% had successful case closure. The more treatment subjects received prior to entering the program, the less likely they were to be working or achieving case closure following treatment. Subjects' work status and initial time off of work were factors predicting early return to work, but not 12 months after program completion. (Beissner KL, Saunders RL, McManis BG. "Factors related to successful work hardening outcomes", Phys Ther 1996 Nov;76(11):1188-201)

Karjalainen et al conducted a systematic review of randomized controlled trials to evaluate the effectiveness of multidisciplinary biopsychosocial rehabilitation for subacute low back pain among working-age adults. Multidisciplinary biopsychosocial rehabilitation programs are widely applied for patients with chronic low back pain. The multidisciplinary biopsychosocial approach for prolonged low back pain could be considered to prevent chronicity. Work site visits and a close relationship with occupational health care might produce results in terms of patients working ability. Reviewed randomized controlled trials as well as controlled trials were identified from electronic bibliographic databases, reference checking, and consultation with experts in the rehabilitation field. Four blinded reviewers selected the trials. Two rehabilitation specialists evaluated the clinical relevance. Two other blinded reviewers extracted the data and assessed the main results along with the methodological quality of the studies. A qualitative analysis was performed to evaluate the level evidence. The authors found that of 1808 references, only 2 relevant studies were included. Both were considered to be methodologically low-quality randomized controlled trials. The clinical relevance of the studies was sufficient. The level of scientific evidence was moderate, showing that multidisciplinary rehabilitation involving work site visit or more comprehensive occupational health care intervention helps patients return to work faster, makes sick leaves less, and alleviates subjective disability. The authors concluded that there is moderate evidence showing that multidisciplinary rehabilitation for subacute low back pain is effective, and that work site visit increases the effectiveness, but because the analyzed studies had some methodological shortcomings, an obvious need still exists for high-quality trials in this field. (Karjalainen K, et al, "Multidisciplinary biopsychosocial rehabilitation for subacute low back pain in working-age adults: a systematic review within the framework of the Cochrane Collaboration Back Review Group", Spine 2001 Feb 1;26(3):262-9)

**Conclusion/Decision to Certify:**

The following work hardening dates of service were medically necessary: 6/11/04, 6/15/04, 6/16/04, 6/17/04, 6/18/04, 6/21/04, 6/22/04, 6/23/04, 6/24/04, 6/25/04, 6/28/04, 6/29/04, 7/1/04, 7/2/04, and 7/5/04

**Conclusion/Decision to Not Certify:**

The following work hardening dates of service were not medically necessary: 7/6/04, 7/7/04, 7/8/04, 7/9/04, 7/12/04, 7/14/04, 7/15/04, 7/16/04, 7/19/04, 7/20/04, 7/21/04, 7/22/04, 7/23/04, 7/26/04, and 7/27/04

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

Karjalainen K, et al, "Multidisciplinary biopsychosocial rehabilitation for subacute low back pain in working-age adults: a systematic review within the framework of the Cochrane Collaboration Back Review Group", Spine 2001 Feb 1;26(3):262-9

**References Used in Support of Decision:**

Beissner KL, Saunders RL, McManis BG. "Factors related to successful work hardening outcomes", Phys Ther 1996 Nov;76(11):1188-201

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This review was provided by a Doctor of Chiropractic who is also a member of the American Chiropractic Academy of Neurology. This reviewer also holds a certification in Acupuncture. This reviewer has fulfilled both academic and clinical appointments and currently serves as an assistant professor at a state college, is in private practice and is a director of chiropractic services. This reviewer has previously served as a director, dean, instructor, assistant professor, and teaching assistant at a state college and was responsible for course studies consisting of pediatric and geriatric diagnosis, palpation, adjusting, physical therapy, case management, and chiropractic principles. This reviewer is responsible for multiple postgraduate seminars on various topics relating to chiropractics and has authored numerous publications. This reviewer has participated in numerous related professional activities including work groups, committees, consulting, national healthcare advisory committees, seminars, National Chiropractic Coalition, media appearances, and industrial consulting. This reviewer has been in practice since 1986.

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.

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