Texas Department of Insurance, Division of Workers' Compensation
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity and Fee Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier

Requestor=s Name and Address:	MDR Tracking No.: M5-05-3230-01
Rehab 2112 P. O. Box 671342 Dallas, TX 75267	Claim No.: Injured Employee's Name:
Respondent's Name and Address: American Casualty Company of Reading, Box 47	Date of Injury: Employer's Name: Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents included TWCC 60 form, Explanations of Benefits and CMS 1500's. Position summary states, "Services were medically necessary."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

. Position summary states, "Carrier respectfully submits its TWCC 60 response with supporting documentation."

PART IV: SUMMARY OF DISPUTE AND FINDINGS - Medical Necessity Services

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
8-11-04 – 8-23-04	CPT code 97110 (26 units X $36.99 MAR)	☒ Yes ☐ No	$961.74
8-25-04, 9-17-04	97750-FC (20 units X $37.05 MAR)	☒ Yes ☐ No	$740.00
8-26-04 – 10-22-04	97545-WH-CA, 97546-WH-CA (206.75 units X $64.00 per Rule 134.202 (e)(5)(C)(ii))	☒ Yes ☐ No	$13,232.00

PART V: 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 Division Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), Medical Dispute Resolution assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

In accordance with Rule 133.308 (e), requests for medical dispute resolution are considered timely if they are filed with the division no later than one year after the date of service in dispute. Date of service 8-9-04 was not timely filed and will not be a part of this review.

The Division has reviewed the enclosed IRO decision and determined that the requestor did prevail on the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is $14,933.74.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 and 134.202.

PART VII: DIVISION DECISION

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. 413.031, the carrier must refund the amount of the IRO fee ($460.00) to the requestor within 30 days of receipt of this order. The Division has determined that the requestor is entitled to additional reimbursement in the amount of $14,933.74. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 30 days of receipt of this Order.

Findings and Decision by:

		10-19-05
Order by:		
		10-19-05
Authorized Signature	Typed Name	Date of Order

PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW

Appeals of medical dispute resolution decisions and 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. The Division is not considered a party to the appeal.

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

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M5-05-3230-01
CLIENT TRACKING NUMBER: M5-05-3230-01 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 from Texas Department of Insurance dated 9/2/05, 22 pages

RECORDS RECEIVED FROM AMERICAN CASULTY CO. (RESPONDENT):
11 page Medical Dispute Resolution Request/Response
Employer's First Report of Injury or Illness dated
3 page examination from Noble Rainwater MD dated 7/1/04
TWCC-73 Work Status Report from Dr. Rainwater dated 7/1/04
Employee's Notice of Injury or Occupational Disease and Claim for Compensation dated 7/2/04
TWCC-73 Work Status Report from Christopher Turner DC dated 7/2/04
15 page history and intake forms in spanish dated 7/2/04
3 pages examination dated 7/2/04
35 pages of chiropractic progress notes for DOS 7/5/04 to1/27/05
4 pages examination from Marlon Padilla MD dated 7/9/04
TWCC-73 Work Status Report from Dr. Padilla dated 7/9/04
1 page lumbar x-ray report from Lonestar Radiology dated 7/9/04
2 pages lumbar MRI report dated 7/9/04
4 pages initial report from Accident and Injury Chiropractic dated 7/9/04
Payment of Compensation or Notice of Refused/Disputed Claim dated 7/15/04
1 page examination dated 7/16/04
TWCC-73 Work Status Report from Christopher Turner DC dated 7/16/04
8 pages peer review dated 7/20/04
1 page examination dated 8/2/04
TWCC-73 Work Status Report from Christopher Turner DC dated 8/2/04
5 pages Report of Medical Evaluation from Martin Jones MD dated 8/12/04
2 pages psychological report from Kenneth Wise Psy.D dated 8/24/04
8 pages initial FCE dated 8/25/04
4 pages muscle stimulator prescription dated 9/2/04
TWCC-73 Work Status Report from Robert Chouteau DO dated 9/2/04
2 page examination from Dr. Chouteau dated 9/2/04
1 page PT prescription dated 9/2/04
1 page appointment for IME notice dated 9/7/04
2 pages memo from Jeffrey Lust dated 9/8/04
13 pages FCE dated 9/17/04
TWCC-73 Work Status Report from Phillip Osborne MD dated 9/22/04
7 pages report from Dr. Osborne dated 9/22/04
6 pages FCE from Dr. Osborne dated 9/22/04
3 pages peer review addendum dated 9/26/04
2 pages report from Dr. Chouteau dated 9/30/04
1 page impairment rating invoice dated 10/12/04
8 pages final FCE dated 10/12/04

2 pages report from Dr. Chouteau dated 10/29/04
1 page examination from Dr. Turner dated 11/2/04
TWCC-73 Work Status Report from Christopher Turner DC dated 11/2/04
6 pages impairment rating evaluation from Tony Bennett DC dated 11/12/04
8 pages MDR Request
8 pages letter of medical necessity dated 1/10/05
10 pages MDR Request/Response
4 pages impairment rating consultation dated 11/3/04
55 pages of rehab notes from Rehab 2112
4 pages retrospective review records request dated 9/2/05
43 pages of HCFA-1500 forms from Rehab 2112
45 pages of EOB forms
127 pages of rehabilitation notes from Rehab 2112
1 1/2 inches of duplicate records, fax cover sheets

Summary of Treatment/Case History:
The patient, a 51-year-old male, strained his back while walking backwards and tripping over debris on the ground on ___. He went to Noble Rainwater MD on 7/1/04 and he was diagnosed with a lumbar strain injury and he was prescribed medications and scheduled for physical therapy. He was also placed on restricted duty for the next week.

The patient went to Accident and Injury Chiropractic on 7/2/04 and he complained of lower back pain. The initial evaluation revealed slightly reduced lumbar ranges of motion and paraspinal tenderness. The neurological examination was unremarkable and orthopedic tests were locally positive in the lumbar region. The patient began a course of chiropractic treatment and he was treated on the following dates solely with passive care and office visits:

July 2004: 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30
August 2004: 10, 17, 24, 31
September 2004: 7, 14, 21, 28
October 2004: 5, 19, 26
November 2004: 29
December 2004: 10
January 2005: 18, 27

The patient was referred to Marlon Padilla MD for a medical evaluation on 7/9/04 and he was diagnosed with a lumbar strain injury with muscle spasms and straight leg raising was positive at 90 degrees bilaterally. The examination was otherwise unremarkable except for range of motion restrictions. The claimant underwent lumbar x-rays studies and a lumbar MRI study and the lumbar x-ray report was unremarkable. The MRI study revealed a broad based shallow protrusion of disc material 3-4 mm in size at L5-S1.

The chiropractor re-examined the claimant on 7/16/04 and ranges of motion were increased in the lumbar region and pain levels were reduced. A subsequent re-examination was done on 8/2/04 and ranges of motion were increased and pain levels were further reduced.

The patient was referred to Rehab 2112 for an initial evaluation on 8/4/04 and he began a course of rehab treatment. Treatments were rendered on the following dates:

August 2004: 4, 9, 11, 13, 16, 18, 20, 23

The patient underwent a designated doctor evaluation with Martin Jones MD on 8/12/04 and Dr. Jones diagnosed the patient with low back pain and lumbar intervertebral disc disorder and he indicated the patient was not at MMI and he projected the patient to reach MMI on or about 10/12/04.

The patient underwent a psychological evaluation on 8/24/04 and he underwent an initial functional capacity evaluation on 8/25/04. The initial FCE revealed the patient was functioning at the medium physical demand level and his job required him to function at the heavy physical demand level. The patient began a work hardening program at Rehab 2112 on 8/26/04 and he was treated on the following dates:

August 2004: 26, 27, 30, 31
September 2004: 1, 2, 3, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 23, 24, 27, 28, 29, 30
October 2004: 1, 4, 5, 6, 7, 8, 11, 12, 14, 15, 18, 19, 20, 21, 22

The patient was examined by Robert Chouteau DO on 9/2/04 and he was diagnosed with lumbar pain secondary to muscle strain, left sacroiliac joint dysfunction, facet syndrome at L5-S1, and lumbar HNP at L5-S1. Continued physical therapy was recommended. The patient was prescribed a home electrical stimulation unit by Robert Chouteau DO on 9/2/04.

The patient underwent an interim functional capacity evaluation with the chiropractor on 9/17/04 and the report indicated the patient was functioning at the MEDIUM-HEAVY physical demand level and his job required him to function at the HEAVY physical demand level.

The patient underwent an independent medical evaluation and FCE with Phillip Osborne MD on 9/22/04 and the report from Dr. Osborne indicated the patient was in his 7th week of work hardening and he was able to meet his job-required duties and he was diagnosed with a lumbosacral strain superimposed over pre-existing degenerative disc disease at L5-S1. The TWCC-73 Work Status Report from Dr. Osborne dated 9/22/04 indicated the patient was able to return to work at full duty without restrictions as of 9/22/04.

The patient was re-examined by Dr. Chouteau on 9/30/04 and he complained of constant numbness and dysesthesia on the left side. The examination revealed local low back pain and pain on hyperextension and rotation. Straight leg raising was positive on the left and negative on the right. The neurological examination was unremarkable.

The patient underwent a final FCE on 10/12/04 and the report indicated the patient was functioning at the MEDIUM-HEAVY physical demand level and his job required him to function at the HEAVY physical demand level.

The patient was examined by Dr. Chouteau on 10/29/04 and he complained of thoracic and lumbar pain and he indicated he was improving with work hardening. Straight leg raising was bilaterally negative and the neurological examination was unremarkable. Continued conservative care was recommended.

The 11/2/04 examination from the treating chiropractor revealed an essentially normal examination with respect to ranges of motion, neurological status, and orthopedic status. The patient complained of lower back pain rated at 4-6/10, but the examination only revealed the presence of local lumbar pain. The patient was returned to work with restrictions through 12/2/04.

The patient underwent an impairment rating examination with Tony Bennett DC on 11/12/04 and he was certified at clinical MMI as of 11/3/04 with 5% permanent impairment

Questions for Review:
1. Were the therapeutic exercises (#97110), FCE (#97750-FC), work hardening program (#97545-WH-CA and #97546-WH-CA) from 8/11/04 through 10/22/04 medically necessary?

Explanation of Findings:
1. Were the therapeutic exercises (#97110), FCE (#97750-FC), work hardening program (#97545-WH-CA and #97546-WH-CA) from 8/11/04 through 10/22/04 medically necessary?

Therapeutic exercises, functional capacity evaluations, and work hardening program treatments were medically necessary from 8/11/04 through 10/22/04. The patient in this case was functioning below his job-required physical demand capacity as of 8/11/04. The initial FCE revealed the patient was functioning at the MEDIUM physical demand level and his job required him to function at the HEAVY physical demand level. The patient underwent an interim functional capacity evaluation with the chiropractor on 9/17/04 and the report indicated the patient was functioning at the MEDIUM-HEAVY physical demand level and his job required him to function at the HEAVY physical demand level. The patient underwent a final FCE on 10/12/04 and the report indicated the patient was functioning at the MEDIUM-HEAVY physical demand level and his job required him to function at the HEAVY physical demand level.

The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (eg, thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. (Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. Phys Ther. 2001;81:1641-1674).

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)

Conclusion/Decision to Certify:
Therapeutic exercises, functional capacity evaluations, and work hardening program treatments were medically necessary from 8/11/04 through 10/22/04.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:
Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. Phys Ther. 2001;81:1641-1674

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

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.

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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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