



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: Rehab 2112 P. O. Box 671342 Dallas, TX 75267	MDR Tracking No.: M5-06-0032-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Dallas Fire Insurance Company, Box 20	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, medical documentation and CMS 1500's. Position summary (Table of Disputed Services) states, "Services are medically necessary."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents included TWCC 60 form and Explanations of Benefits. Position paper states, "There simply is no medical documentation to substantiate the reasonableness or medical necessity for the treatments provided by Requestor."

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)
10-5-04 – 10-22-04	Work Hardening Program	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0

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.

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

Based on review of the disputed issues within the request, the Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by Medical Dispute Resolution.

On 10-17-05 the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 99455 WP V3 on 12-10-04 was denied by the carrier as "880-104 – Unnecessary treatment per peer review." According to Rule 134.202 (e)(6) this is a necessary report. Recommend reimbursement of \$195.00.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 and Rules 134.202(c)(1) and 134.202 (e)(6).

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 Division has determined that the requestor is not entitled to a refund of the paid IRO fee. The Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute in the amount of \$195.00. 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 and Order by:

Donna Auby

12-9-05

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.



Specialty Independent Review Organization, Inc.

Amended Report of 11/9/05

October 31, 2005

DWC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
DWC #:
MDR Tracking #: M5-06-0032-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Division of Workers' Compensation has assigned this case to Specialty IRO for independent review in accordance with DWC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered 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.

This case was reviewed by a licensed Chiropractor. The reviewer is on the DWC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was employed with AMS Staff Leasing when she was injured on ___. Apparently, she was working for the Tarrant County Sheriff upon injury. She was riding in a golf cart when a forklift struck her cart. She went through passive and active treatment with Patricia Johnson, DC until she was referred for work hardening in September, 2004. The cervical MRI revealed desiccation from C3 to C5 and protrusion at C3 and C5. She had an RME with Deepak Chavda, MD on 10/1/04 in which he states he didn't have many medical records to review. He recommends that the patient has had too much passive therapy and that WH within three months is not medically necessary. It is clear that the patient was uncooperative during most of her treatment protocols. She missed 11 of 21 work hardening visits. She was placed at MMI with a 10% WP impairment by Tony Bennett, DC on 12/15/04.

RECORDS REVIEWED

Records were received from the respondent and from the requestor/treating doctor. Records from the respondent include the following: 10/27/05 letter by W. Jon Grove and 10/1/04 RME by Deepak Chavda, MD. Records from the requestor/treating doctor include the following (321 pages): MDR request letter 8/25/05, brain MRI 6/8/04, 6/9/04 cervical and lumbar MRI, 6/15/04 radiological reports by T. Uptigrove, DC DACBR, 3/7/05 LMN, TWCC 60 and attached documentation, various HICFA 1500's and EOB's, WH program daily notes from 09/27/04 to 10/26/04, daily therapy notes from 8/31/04 through 9/21/04, multiple case management summary reports, psychology group notes by K. Wise, Ph D, active rehab exercise sheets from 8/31/04 through 9/21/04, patient release worksheet, 10/25/04 FCE, TWCC 69 and report by Tony Bennett, DC, Tarrant County Sheriff's Office labor detail rules and regs, various TWCC 73's, various "no show sheets" for WH program, 9/24/04 FCE, various Outcome Assessment forms filed by the patient, Rehab 2112 initial exam report, patient history and intake sheets of Rehab 2112, handwritten note form, abbreviation list, diagnosis and treatment sheets, phase 1 rehab sheets from 7/26/04 through 8/24/04, TWCC 21, notes

by Marlon Padilla, MD, E1, ICD9 code sheet (with 36 dx codes), examination sheets, daily progress notes from 6/08/04 through 8/24/04, 6/15/04 initial report and personal history and intake sheets of Accident and Injury.

DISPUTED SERVICES

The disputed services include a work hardening program (97545-WHCA and 97546-WHCA) from 10/5/04 through 10/22/04.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

In order to be prepared for the work hardening program, the patient underwent active therapy consisting of a few sheets of exercises of a very basic nature. She spent between 8 and 11 minutes performing these exercises on a daily basis from 7/26/04 through 8/24/04. On 8/31/04, a slightly more aggressive program was initiated through 9/21/04. (9 visits were performed during this time period; 9/3/04 was not documented) These visits lasted between 32 and 40 minutes. Approximately 15-30 minutes of each visit was performed on cardiovascular therapies. An FCE was performed on 9/24/04. She measured: leg lift 66.3, torso lift 36.2, arm lift 62.6 and high near lift 51.0. As of the 10/25/04 FCE she measured: leg lift 31.9, torso lift 40.4, arm lift 52.4 and high near lift of 46.4. All of the measurements had decreased from the 9/24/04 FCE with the exception of the torso lift, which had increased approximately 10%. No increase in heart rate was noted during any of the examinations. This indicates a lack of physiological effort or a SA node problem in the heart. Since no heart complications were noted in the records, it is assumed it is from a lack of patient effort. The reviewer indicates this should have precluded the patient from a WH program as she was not providing enough effort to determine her true PDL.

According to the Council of Chiropractic Physiological Therapeutic and Rehabilitation Guidelines, at least three months post injury is required to perform the work hardening program. Secondly, these guidelines and DWC guidelines indicate that the lesser levels of care should be given a reasonable effort prior to proceeding to tertiary levels of care. It is not apparent that the minimal exercise protocols would meet this standard.

Lastly, according to Saunders, a patient is not a candidate for a WH program if he/she does not provide good effort, have a job to return to or appear to be a good candidate for success. It is not clear that the patient was required to return to a medium PDL, as it is likely that the staffing company could have sent the employee to another job at a light or sedentary PDL. Therefore, she would not have required to be at a medium PDL to return to work at this time.

REFERENCES

Liebenson, C Rehabilitation of the Spine. 1996, Williams and Wilkins, Chapter 4.

Saunders, R Functional Capacity Evaluation. 1998, Saunders Group, Chapter 3.

Baechle, T Earle, R Essentials of Strength Training and Conditioning, 2nd Edition. 2000, NSCS

American College of Occupational and Environmental Guidelines

American College of Sports Medicine Guidelines for Exercise Testing and Prescription

Council of Chiropractic Physiological Therapeutic and Rehabilitation Guidelines

Reed, P Medical Disability Advisor, 2003, Internet

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that the reviewing provider has no known conflicts of interest between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director
Your Right To Appeal

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). 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. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

Sincerely,

Wendy Perelli, CEO

I hereby certify, in accordance with TDI/DWC- Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the via facsimile, U.S. Postal Service or both on this 9th day of November 2005

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli