



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

PART I: GENERAL INFORMATION

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier	
Requestor's Name and Address:	MDR Tracking No.: M5-06-0865-01
Buena Vista Workskills 5445 La Sierra Dr. #204 Dallas, Texas 75231	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:
TX Mutual Insurance Company, Box 54	

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC-60 package. Position Summary states, "The insurance carrier has established an unfair and unreasonable time frame in paying the services that were medically necessary and rendered to the injured worker."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC-60 response. Position Summary states, "Texas Mutual requests that the request for dispute resolution filed be conducted under the provisions of the APA set out above."

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)
1-5-05- 3-8-05	CPT code 97545-WHCA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0
1-5-05- 3-8-05	CPT code 97546-WHCA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0
1-5-05- 3-8-05	CPT code 97750-FC	<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.

In a letter dated 2-21-06 date of service 1-5-05 was withdrawn by the requestor. These services will not be a part of this review.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308

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 additional reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

Donna Auby

2-22-06

Authorized Signature

Typed Name

Date of Findings and Decision

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.

February 16, 2006

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

Patient:
DWC #:
MDR Tracking #: M5-06-0865-01
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 psychological portion of the review was performed by a Ph D/LPC. The reviewers are 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 injured on ___ while employed with Parent Child, Inc. There are a few versions of the mechanism of injury. The respondent indicates she was injured while putting a baby down. Several doctors noted she was injured while picking up and lower chairs. The MRI of 12/21/04 indicates herniation at L1/2 and L3/4 and protrusion at L4/5. She underwent multiple treatments over the next 15 months. She was psychologically examined and found to be a candidate for a WH program. She was treated for 40 sessions of work hardening. She had multiple FCE's and PPE's during the course of treatment.

RECORDS REVIEWED

Records were received and reviewed from the requestor, respondent and the treating doctor. Records from the respondent include the following: 2/8/06 letter by LaTreace Giles, RN, notes from Texas Med Clinic, 12/21/04 radiology report by SA DX Imaging, 1/5/05 behavioral medicine consult report and addendum, work hardening progress, flow sheets and group notes from 1/6/05 through 3/08/05, daily notes by Gilbert Gonzales, DC from 1/17/05 to 3/10/05, 2/4/05 FCE (interim), 2/18/05 FCE (final), 3/8/05 PPE, 8/20/05 IR report signed by Ronnie Shade, MD, TWCC 69 of 8/24/05 signed by Dr. S. Banker, DC and peer review by NF Tsourmas, MD.

Records from the treating doctor include the following: (the records noted below are in addition to any records that were listed above) SOAP notes by Dr. Gonzales 11/03/04 through 9/26/05, notes by Gregory Lilly, MD from 9/29/05 through 10/13/05, DD report by Raymond Alexander, MD and 1/3/05 FCE (initial).

Records from the requestor (approximately 2 inches of records) include the following: (the records noted below are in addition to any records that were listed above) LMN by D. Dutra MD, biofeedback therapy notes from Buena Vista Work Skills, Weekly staffing reports during the program.

DISPUTED SERVICES

Disputed services include a work-hardening program (97545/97546) and functional capacity evaluations (97750) from 1/5/05 through 3/8/05.

DECISION

The reviewer agrees with the previous adverse determination regarding all services under review.

BASIS FOR THE DECISION

The reviewer states that the usage of a work hardening program for a person with a light PDL is definitely unusually; however, no guidelines can be located that indicate it cannot or should not be performed. The reviewer notes that on the peer review by Dr. Tsourmas that the patient indicates that her future goals include staying home with her grandson (and on 2/11/05 WH note). This is not an appropriate goal for a work hardening program. According to Saunders, entrance criteria for a work hardening program include the following: 1) client is unable to return to previous levels of employment because of pain or dysfunction 2) there is a reasonably good prognosis for improved employment as a result of WH 3) patient has a clear job oriented goal 4) the goal is attainable in 6-8 weeks 5) client does not have a psychological diagnosis that interferes with this progress 6) WH is not medically contraindicated. This person does not meet criteria 2, 3, 4 and 5.

The reviewer notes that Ms. ___ has not improved after 15 months of passive and active conservative therapy. There is very little reason to believe that she would improve during a work hardening program. An interesting note on Mr. Marco Valdez's report dated 2/4/05 states "A WHP is a highly structured, goal oriented, individual treatment program...to maximize the patient's ability to return to work...so the patient can reduce his dependence in the health care system." This is apparently a canned section of each report as it relates that a male patient will improve. This patient is a female. The reviewer can find no reason indicated in the FCE that the patient would likely improve with continued physical medicine. ESI's were reportedly being requested at this point of treatment. The reviewer notes that these are generally primary or secondary stage treatments and are not generally used during a tertiary phase of treatment. The patient's response between the initial FCE and the interim FCE indicates very minor improvements. More importantly, the WH notes indicate that no job specific activities were performed on any date. The reviewer indicates that this portion of a WH hardening program is the most important to prepare the person to meet specific job demands. This was not performed; therefore, the care performed cannot truly be a work hardening program.

Regarding the patient's PDL, on the 1/3/05 she met the middle of requirements between the sedentary and light PDL on most lifts. She is very close to her PDL. It is unlikely after an extended period of active therapy that she could have reached her goals within the time-period allotted by Saunders.

The response to treatment was sub-optimal after 15 months of care. According to Reed, medical treatment for a lumbar disc injury should be as follows:

Medical treatment.

Job Classification	Minimum	Optimum	Maximum
<i>Sedentary</i>	1	7	14
<i>Light</i>	1	14	21
<i>Medium</i>	1	21	42
<i>Heavy</i>	1	56	91
<i>Very Heavy</i>	1	91	168

This patient care being reviewed does not fall anywhere close to these recommended treatment guidelines. No evidence of complicating factors or comorbid conditions was noted.

REFERENCES

Schonstein E, [Kenny DT](#), [Keating J](#), [Koes BW](#) Work conditioning, work hardening and functional restoration for workers with back and neck pain Cochrane Database Syst Rev. 2003;(1):CD001822

Saunders, R Industrial Rehabilitation, Techniques for Success, 1995 The Saunders Group pp 20-1.

Reed, P Medical Disability Advisor, 2003

NASS Phase III Clinical Guidelines.

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 DWC via facsimile, U.S. Postal Service or both on this 16th day of February 2006

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli