



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: Dr. Tommy Overman 6161 Harry Hines Blvd. Ste. 105 Dallas, TX 75235	MDR Tracking No.: M5-06-0959-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Liberty Insurance Corp, Box 28	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC-60 package. Position Summary (Table of Disputed Services) states, "Work Hardening Program met the criteria that is set for that treatment."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC-60 response. Position Summary (Table of Disputed Services) states, "Charges denied per peer review."

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)
8-15-05 – 9-22-05	97545-WH-CA, 97546-WH-CA	<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.

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

4-10-06

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.

**IRO Medical Dispute Resolution M5 Retrospective Medical Necessity
IRO Decision Notification Letter**

Date:	03/31/2006
Injured Employee:	
MDR #:	M5-06-0959-01
DWC #:	
MCMC Certification #:	TDI IRO-5294

REQUESTED SERVICES:

Please review the item(s) in dispute: Work hardening (97545-WH-CA) and work hardening each additional hour (97546-WH-CA).

Dates of service (DOS): 08/15/2005 through 09/22/2005

DECISION: Upheld

IRO MCMC llc (MCMC) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO) to render a recommendation regarding the medical necessity of the above disputed service.

Please be advised that a MCMC Physician Advisor has determined that your request for an M5 Retrospective Medical Dispute Resolution on 03/31/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity for the application of work hardening and work hardening each additional hour as noted above from 08/15/2005 through 09/22/2005 is not established.

CLINICAL HISTORY:

Records indicate that the above captioned individual, a 38-year-old female, reportedly sustained injuries during the course of her normal employment. The history reveals that on or about ____, she slipped and fell reportedly injuring her right knee. Initial treatment included a protracted course of physical therapy and Synvisc injections times three, which occurred in March of 2004. MRI examination confirmed internal derangement of the knee. Work hardening was administered beginning 02/24/2004. She has undergone two knee surgeries. The first knee surgery was dated 10/16/2003 and involved medial and lateral partial meniscectomies and the second involved a medial meniscectomy occurring on 01/20/2005. A second round of work hardening was administered beginning 08/15/2005. The documentation also indicates that the injured individual participated in a course of chronic pain management either in conjunction with or at the conclusion of work hardening.

REFERENCES:

ACOEM Guidelines Second Edition. American College of Occupational and Environmental Medicine

Texas Medical Fee Guidelines

RATIONALE:

The documentation fails to establish the medical necessity for the application of work hardening, which commenced on or about 08/15/2005. Specifically, the Functional Capacity Exam (FCE) utilized to initiate the work hardening program was dated and contained invalid data. The provider, in a letter of reconsideration, stated that the FCE dated 06/14/2005 was utilized as the entrance FCE. The provider goes on to state that an additional "full formal FCE was not done because it simply would have added unnecessary cost to the treatment and would have provided redundant information". It is not clearly revealed what treatment transpired from 06/14/2005 until the initiation of the work hardening program or if any changes had been made in regards to medication management or if any additional attempts had been made at injections. Any of these factors could have potentially altered the baseline information. Additionally, a close inspection of the actual FCE report reveals that the functional

examination

itself had been deemed invalid by the examiner. Under the heading "VALIDITY PROFILE", it states, "Of the validity profile scored, patient scored 34% in the valid profile (14/32) and 56% in the invalid profile (18/32). Extrapolation of this data does place the patient in the invalid profile indicating invalid FCE data and submaximal effort". There are no indications that this test was ever questioned or addressed by the Attending Physician, or if another attempt was made to procure a valid FCE and current baseline data. A prior review indicates that two other FCE's were performed, dated 08/19/2005 and 08/26/2005, after the initiation of work hardening, however no associated reports or indications that the additional FCE's were performed were revealed or discovered in the submitted documentation.

It is possible that given the circumstances including the fact that the injured individual had already participated in a number of prior FCE's that the FCE dated 06/14/2005 could have sufficed as the entrance FCE. However given the apparent profound invalid data and the fact that the examiner opined that the injured individual offered submaximal effort, this 06/14/2005 FCE could not reasonably substantiate the medical necessity for the application of work hardening which commenced on 08/15/2005.

The documentation reveals that the injured individual had undergone knee surgery times two, the latest of which was January of 2005. It is also clear that the injured individual exhibited psychosocial issues including depression and anxiety and pain behavior. The documentation also demonstrates that functional gains were recorded during the course of the program. Given these factors, without the invalid FCE, the injured individual could have possibly been an appropriate candidate for work hardening. However given the statements within the FCE, in which the examiner opined invalid data and submaximal effort, the medical necessity for work hardening as captioned above based on the results of that 06/14/2005 FCE is not established.

RECORDS REVIEWED:

Notification of IRO Assignment dated 02/27/06

MR-117 dated 02/27/06

DWC-60

DWC-53: Employee's Request to Change Treating Doctors dated 09/29/05

Supplemental Report of Injury dated 07/21/03

DWC-69: Report of Medical Evaluations dated 03/13/04, 01/11/05, 08/02/05

DWC-32: Request for Designated Doctor dated 05/26/05, 08/14/04

DWC-73: Work Status Reports dated 07/08/03 through 10/06/05 and three undated with expected disability dates of 10/04/03, 11/08/03, 12/08/03

DWC EES-14 dated 02/18/04

EES-14: Letter dated 02/18/04

MCMC: IRO Medical Dispute Resolution M5 Retrospective Medical Necessity dated 03/03/06

MCMC: IRO Acknowledgment and Invoice Notification Letter dated 02/28/06

MCMC: Statement dated 03/01/06

Peer Review Analysis form dated 02/28/06

Dallas Spinal Rehabilitation Center: Letter dated 02/07/06 from Tommy Overman, Clinical Director

Professional Reviews: Reconsideration letter dated 12/21/05 from Elena Antonelli, M.D.

Liberty Mutual: Explanation of Benefits dated 12/09/05, 10/19/05 for services performed 08/15/05 to 09/22/05

Professional Reviews: Billing Retrospective Review dated 09/27/05 from Rodolfo Marin, PT

Dallas Spinal Rehabilitation Center: Discharge Functional Capacity Evaluation Summary Report dated 09/27/05 from Wm.

Russell Blaylock, OTR

The Blankenship System: Functional Capacity Evaluations dated 09/27/05, 06/16/05

Dallas Spinal Rehabilitation Center: Work Hardening Weekly Summaries dated 09/23/05, 09/16/05, 09/02/05, 08/26/05, 08/19/05

Dallas Spinal Rehabilitation Center: Bi-Weekly Progress Notes dated 09/13/05, 09/08/05, 09/02/05, 08/31/05, 08/25/05 from Margarita Morales-Solis, MA and Tommy Overman, EdD

Dallas Spinal Rehabilitation Center: Work Hardening Weekly Team Staffing notes dated 09/08/05, 09/01/05, 08/25/05, 08/18/05

Dallas Spinal Rehabilitation Center: Individual Psychotherapy Note dated 08/31/05 from Margarita Morales-Solis, MA and Tommy Overman, EdD

Churchill Evaluation Centers: Report of Medical Evaluation dated 08/02/05 from Armando Molina, M.D. with attached Review of Medical History, Physical Examination, Impairment Rating Calculation and Detail and Testing and Measurements

Christopher Plate, D.C.: Chart note dated 07/19/05

Dallas Spinal Rehabilitation Center: Work Hardening Daily Progress Notes dated 06/20/05 through 09/23/05

Dallas Spinal Rehabilitation Center: Functional Capacity Evaluation Summary Report dated 06/14/05 from Robert Deck, D.C.

L&W Orthopedic Associates: Follow-Up notes dated 06/05/05, 05/23/05, 12/22/04 from John Wey, M.D.

Dallas Spinal Rehabilitation Center, Inc.: Psychiatric Diagnostic Interview and Recommendations dated 05/11/05 from Margarita

ACT Medical: Certificate of Medical Necessity dated 02/22/05
Injury Care Associates: Daily Progress/Therapy Notes (handwritten) dated 02/16/05 through 04/15/05
Richardson Regional Medical Center: Operative Report dated 01/20/05 from John Tsu-Yuan Wey, M.D.
Richardson Regional Medical Center: Hospital note dated 01/20/05 with surgical diagnosis, anesthesia start/finish, surgery start/finish, vital signs
Churchill Evaluation Centers: Report of Medical Evaluation dated 01/11/05 from William Healey, M.D. with attached Review of Medical History and Physical Examination
Texas Imaging & Diagnostic Center: MRI right knee dated 12/14/04
AmeriCARE Clinics: Daily Notes dated 10/29/04, 10/05/04 from Dirce Ortiz, LPC
Princeton Pain Management: Daily Notes dated 09/27/04 through 09/29/04 from Gishela Alfaro, LPCI
Berkshire Medical Services: Follow up notes dated 09/29/04, 08/04/04, 03/26/04
AmeriCARE Clinic: Daily Notes dated 08/30/04 through 09/24/04 from Gishela Alfaro, LPCI
Exercise Flow Sheet dated 06/01 through 06/30 2004
Doctor's note (handwritten) dated 06/30/04 signed by Mary H., Therapist (signature illegible)
Central Dallas Rehab: Letter dated 04/20/04 from Carol Kelley, Collection Department
DWC Medical Review Division: Medical Dispute Resolution Findings and Decision issued 04/07/04 by Regina Cleave, Medical Dispute Resolution Officer
Work Recovery, Inc.: ERGOS Evaluation Summary Reports dated 03/31/04, 01/29/04
Forte: Notice of Independent Review Decision dated 03/26/04 from Deborah Raine
L&W Orthopedic Associates: Letters dated 03/21/05, 02/04/05 from John Wey, M.D.
Mool Nigam, M.D.: Designated Doctor Evaluation dated 03/13/04
Work Hardening Progress Note/Staffing Notes dated 03/10/04 (two, Week #2, Week #3) and 03/03/04 (Week #6)
Work Hardening Treatment Plan signed 02/25/04
Central Dallas Rehabilitation: Work Hardening notes dated 02/24/04 through 03/18/04
AmeriCARE Pain Management: W/H Screening dated 01/30/04 from Jennifer Perla, LPC-I
Work Recovery, Inc.: ERGOS Supporting Data Report dated 01/29/04
Central Dallas Rehabilitation: Re-evaluations dated 01/26/04, 09/18/03 from Dr. Christopher Plate
Metroplex Injury & Medical Consultants: Letters of Medical Necessity dated 10/23/03-11/02/03, 11/03/03 (two), 11/03/03-11/12/03 and 11/17/03
Physicians' Metroplex Hospital: Lab report dated 10/17/03
Physicians' Metroplex Hosp: Patient information sheet dated 10/16/03
Physicians' Metroplex Hospital: Pre-Admission/Follow-Up Call List dated 10/16/03
Physicians' Metroplex Hospital: Operative Report dated 10/16/03 from Deepak Chavda, M.D.
Texas Bone & Joint Center: Post Operative Instructions Knee Arthroscopy signed 10/16/03
AmeriPath North Texas: Lab report dated 10/16/03
Physicians Order Sheet (handwritten) dated 10/16/03
Post Procedure/Post Sedation Orders (handwritten) dated 10/16/03
Texas Bone and Joint Center: Physician's Orders, Post-Op Knee Arthroscopy dated 10/16/03 from Deepak Chavda, M.D.
Physicians' Metroplex Hospital: Day Surgery Record dated 10/16/03
Metroplex Hospital: Pre-Procedure Nursing Record dated 10/16/03
Pre & Post Anesthetic/Sedation Summary dated 10/16/03
Anesthesia Record dated 10/16/03
Short Stay, Post Operative Progress Note dated 10/16/03
Texas Bone & Joint Center: Lab report dated 10/14/03
Texas Bone & Joint Center: Statement dated 10/13/03
Spacelabs Medical: ECG report dated 10/13/03
Texas Bone & Joint Center: Right knee radiographs dated 09/29/03
Texas Bone & Joint Center: Radiographic Studies note dated 09/29/03 from Deepak Chavda, M.D.
Texas Bone & Joint Center: Office notes dated 09/29/03 through 06/18/04 from Deepak Chavda, M.D.
Central Dallas Rehab: Statement dated 09/25/03
Ultrascan: MRI right knee, MRI left knee dated 09/03/03
Physical Performance Evaluation dated 08/25/03 (handwritten)
Examen Breve para La Ansiedad y Depression dated 08/25/03
Cuestionario Oswestry dated 08/25/03
Headache Disability Index dated 08/25/03
Modified Somatic Perception Questionnaire dated 08/25/03

Modified Zung Index dated 08/25/03

Central Dallas Rehabilitation Diagnostic Center: Functional Abilities Evaluations dated 08/07/03, 08/12/03, 08/28/03, 09/10/03, 09/25/03

Central Dallas Rehabilitation: SOAP notes dated 08/05/03 through 07/16/04

Berkshire Medical Services: Initial Report, Medical Consultation dated 08/04/03 from Crawford Sloan, M.D.

Central Dallas Rehabilitation: New Patient Exam dated 08/04/03 from Dr. Christopher Plate

Spinal Digital Imaging: Bilateral knee radiographs dated 08/04/03

Eric J. Coligado, M.D.: Initial Consultation dated 08/01/03

Concentra Medical Centers: Transcription notes dated 07/21/03, 07/14/03, 07/10/03, 07/08/03

CMS: Letter dated 07/23/02 from Lisa Wilson, SADMERC HCPCS Representative

Concentra Medical Centers: Activity Status Reports (undated) with next visit dates of 07/11/03, 07/21/03

Spinal Digital Imaging: Letter of Necessity (undated)

Central Dallas Rehab: Fax note to Joe Garcia (undated)

Undated article entitled, "Thermal Therapy System 3 Hot/Ice Unit"

The reviewing provider is a Licensed/Boarded Chiropractor and certifies that no known conflict of interest exists between the reviewing Chiropractor 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 prior to referral to the IRO. The reviewing physician is on DWC's Approved Doctor List.

This decision by MCMC is deemed to be a Division decision and order (133.308(p) (5)).

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.

In accordance with Division rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of DWC on this

31st day of March 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____