



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

<b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address:	MDR Tracking No.: M5-06-0963-01
<b>Buena Vista Workskills</b> 5445 La Sierra Drive #204 Dallas TX 75231	Claim No.:
	Injured Worker's Name:
	Date of Injury:
Respondent's Name and Address:	Employer's Name:
	Insurance Carrier's No.:
<b>Texas Cotton Ginners Trust Rep Box 47</b>	

#### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DWC-60 package. Position summary: Services were medically necessary.

#### PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Response to DWC-60 package. Position summary: Not reasonable and necessary.

#### PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
4-29-05 to 7-19-05	90801 97545-WH-CA 97546-WH-CA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00

#### 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.

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

Findings and Decision by:

Medical Dispute Officer

3-31-06

Authorized Signature

Typed Name

Date

**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 America Inc.

**An Independent Review Organization  
7626 Parkview Circle  
Austin, TX 78731  
Phone: 512-346-5040  
Fax: 512-692-2924**

March 29, 2006

TDI-DWC Medical Dispute Resolution  
Fax: (512) 804-4868

Patient:

TDI-DWC #:

MDR Tracking #:

IRO #:

M5-06-0963-01

5251

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

IRO America has performed an independent review of the proposed care 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.

The independent review was performed by a matched peer with the treating doctor; the Reviewer is a credentialed Panel Member of IRO America's Medical Knowledge Panel who is a licensed Provider, board certified and specialized in Chiropractic Care. The reviewer is on the DWC Approved Doctor List (ADL).

The IRO America Panel Member/Reviewer is a health care professional who has signed a certification statement stating that no known conflicts of interest exist between the Reviewer 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 carriers health care providers who reviewed the case for decision before referral to IRO America for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

**RECORDS REVIEWED**

Notification of IRO Assignment, records from the Requestor, Respondent, and Treating Doctor(s), including:

1. Medical Dispute Resolution Request.
2. Table of Disputed Services.
3. Explanation of Payments.
4. Electrodiagnostic examination, 3-31-05.
5. Right ankle MRI, 3-29-05.
6. Initial Behavioral Medicine Consultation, 4-29-05.
7. Peer reviews by B. McKechnie, D.C., 5-2-05 and 7-22-05.
8. Work Hardening documentation from Buena Vista Work Skills, 6-6-05 through 7-19-05.
9. Peer review by K. Babick, Ph.D., 6-24-05.
10. Team Conference reports, 7-8-05, 7-15-05, and 7-22-05.
11. IR by S. Fyke, D.C., 8-2-05.

### **CLINICAL HISTORY**

\_\_\_\_\_ : The Patient was an 18 year old male that sprained his right ankle while at work. He was evaluated at the emergency room and prescribed anti-inflammatory and an air brace.

2-28-05: The Patient started chiropractic care under the auspices of R. Sealy-Wirt, D.C. Treatment included electrical stimulation, ultrasound, myofascial release, paraffin bath, and therapeutic exercise. Between 2-28-05 and 4-15-05, the patient was seen for 23 sessions. Subjective improvement was seen until 4-5-05. Both plantarflexion and dorsiflexion range of motion was at or above normal as of 3-19-05. On 3-31-05, plantarflexion strength was greater than 100 pounds and dorsiflexion strength was greater than 30 pounds.

3-29-05: Right ankle MRI demonstrated possible anterolateral impingement, small joint effusion with small synovial cyst arising from the upper aspect of the talonavicular joint, and mild soft tissue swelling at the in-step without abnormality of the anterior tendons.

3-31-05: Electrodiagnostic evaluation demonstrated findings consistent with a posterior tarsal tunnel syndrome involving the plantar branch of the right tibial nerve.

4-29-05: Behavioral assessment was performed. Pain scale ranged between 5/10 and 8/10. The Patient was still off work. The Patient's primary concerns were functional limitations and an inability to work. He reported occasionally feeling helplessness and uselessness. His behavior was cooperative. He reported 10 hours of sleep per night and a normal appetite. The Patient reported the pain interfered with his recreational, social, and family activities rated 5/10 and pain interfered with his ability to work rated 4/10. He reported irritability and restlessness rated 1/10, frustration and anger rated 1/10, muscle tension rated 1/10, nervousness rated 1/10, depression rated 1/10 and sleep disturbance rated 1/10. GAF was 70 indicating The Patient was generally functioning well. The documentation demonstrated far more functional issues than behavioral and psychological issues. The therapist recommended a brief course of individual psychotherapy.

6-6-05 through 7-19-05: A WHP was performed at the Buena Vista Work Skills.

8-2-05: An impairment rating was performed by S. Fyke, D.C. MMI was determined on 7-26-05 and 0% WPI was assigned.

### **DISPUTED SERVICE(S)**

Under dispute is the retrospective medical necessity of: diagnostic interview, work hardening program for the dates 4/29/05 through 7/19/05.

### **DETERMINATION/DECISION**

The Reviewer agrees with the determination of the insurance company.

### **RATIONALE/BASIS FOR THE DECISION**

The diagnostic interview was not reasonable. The behavioral assessment was performed on 4-29-05, less than 2 ½ months status post ankle sprain. A behavioral assessment at this stage of recovery is unreasonable.

The Work Hardening Program was not reasonable or necessary for multiple reasons.

First, the documentation fails to demonstrate there were psychological and/or behavioral issues in need of treatment. To the contrary, the behavioral assessment performed 2 ½ months s/p injury demonstrated findings extremely consistent with normal ups and downs. Irritability and restlessness were rated 1/10, frustration and anger was rated 1/10. Vocational distress was rated 1/10, muscle tension was rated 1/10, sadness and depression was rated 1/10, and sleep disturbance was rated 1/10. The patient

specifically indicated he was sleeping 10 hours per night and his appetite was the same since the injury. The Patient denied suicidal or homicidal ideations. Furthermore, the GAF was 70 indicating The Patient was generally functioning well. A general cut off of 71 indicates current symptoms present are 'transient and expected' reactions. Additionally, with the exception of the GAF, the documentation did not even include simple behavioral assessment tools such as BDI, BAI, MSPQ, PAIRS, or SF36 questionnaires to objectively quantify behavioral issues. The Reviewer's medical assessment is that a highly structured, goal oriented individualized treatment program addressing behavioral and vocational needs were not necessary in this case.

Second, the documentation simply demonstrates functional deficits and subjective reports of pain. Behavioral and vocational care is not reasonable when such a situation presents.

Third, the documentation provided fails to demonstrate improvement in regards to behavioral issues. The behavioral assessment performed on 4-29-05 indicated The Patient rated his muscle tension 1/10, vocational issues 1/10, anxiety 1/10, depression 1/10 and sleep disturbance 1/10. Again, this information does not support behavioral treatment. The Team Conference report dated 7-22-05, after completing the WHP, indicated The Patient reported muscle tension 1/10, vocational issues 1/10, anxiety 1/10, depression 1/10, and sleep disturbance 1/10. In regards to his behavioral/mood status, The Patient did not improve adequately despite the multidisciplinary WHP.

Fourth, after reviewing the WHP documentation, it appears the majority of the treatment performed included general exercises such as stretching, upper extremity strengthening, lower extremity strengthening, cardiovascular training, a yoga class, and massage. The documentation fails to indicate The Patient was deconditioned to require whole body exercises following this ankle injury.

Fifth, the documentation did not include the functional capacity evaluations or an official job description. A functional capacity evaluation must validate maximum effort with heart rate monitoring, blood pressure monitoring, horizontal lift comparisons, MVE, REG and COV. The Reviewer can not objectively determine the functional capacity evaluations were valid. Simply documenting The Patient's PDL was 'light' and required PDL was 'heavy' is insufficient. The documentation did not include an official job description; therefore, The Reviewer can not objectively determine the patient was incapable of returning to work. Furthermore, the documentation did not specifically indicate if modified duty was or was not available. A DWC-73 should have been completed with restrictions consistent with the FCE results, if maximum effort was observed. If modified duty was available, The Patient should have been returned to work with restrictions. In other words, the documentation did not indicate the patient's 'true' level of functioning interfered with his ability to carry out 'specific identifiable tasks' required by his job.

## **Screening Criteria**

### **General:**

In making his determination, the Reviewer had reviewed medically acceptable screening criteria relevant to the case, which may include but is not limited to any of the following: Evidence Based Medicine Guidelines (Helsinki, Finland); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Texas Chiropractic Association: Texas Guidelines to Quality Assurance (Austin Texas); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Mercy Center Guidelines of Quality Assurance; any and all guidelines issued by DWC or other State of Texas Agencies; standards contained in Medicare Coverage Database; ACOEM Guidelines; peer-reviewed literate and scientific studies that meet nationally recognized standards; standard references compendia; and findings; studies conducted under the auspices of federal government agencies and research institutes; the findings of any national board recognized by the National Institutes of Health; peer reviewed abstracts submitted for presentation at major medical associates meetings; any other recognized authorities and systems of evaluation that are relevant.

### **CERTIFICATION BY OFFICER**

IRO America has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. IRO America has made no determinations regarding benefits available under the injured employee's policy.

As an officer of IRO America Inc., I certify that there is no known conflict between the Reviewer, IRO America and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

IRO America is forwarding by facsimile, a copy of this finding to the DWC.

Sincerely,  
**IRO America Inc.**



Dr. Roger Glenn Brown  
**President & Chief Resolutions Officer**

### **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.

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

I hereby certify, in accordance with DWC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to DWC via facsimile, on this 29<sup>th</sup> day of March, 2006.

Name and Signature of IRO America Representative:

Sincerely,  
**IRO America Inc.**



Dr. Roger Glenn Brown  
**President & Chief Resolutions Officer**

