



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 Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier	
Requestor's Name and Address: Buena Vista Workskills 5445 La Sierra Drive # 204 Dallas, Texas 75231	MDR Tracking No.: M5-06-1236-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Zenith Insurance Company Rep Box # 47	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: DWC-60 dispute package
 POSITION SUMMARY: "In summary, it is our position that Zenith Insurance has established an unfair and unreasonable time frame in paying for the services that were medically necessary and rendered to Mr. _____".

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60
 POSITION SUMMARY: "Zenith continues to believe that the disputed services were not medically necessary. In addition, work hardening programs typically last from four to six weeks, rather than the twelve weeks of this program. These services were not only unnecessary, but excessive and protracted as well".

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
09-22-05 to 12-28-05	97545-WH-CA (1 unit @ \$128.00 X 32 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$4,096.00
	97546-WH-CA (3.75 units @ \$240.00 X 12 DOS)		\$2,880.00
	97546-WH-CA (3.5 units @ \$224.00 X 12 DOS)		\$2,688.00
	97546-WH-CA (2 units @ \$128.00 X 1 DOS)		\$128.00
	97546-WH-CA (3.25 units @ \$208.00 X 1 DOS)		\$208.00
	97546-WH-CA (2.5 units @ \$160.00 X 1 DOS)		\$160.00
	97546-WH-CA (4.75 units @ \$304.00 X 2 DOS)		\$608.00
	97546-WH-CA (5.5 units @ \$352.00 X 1 DOS)		\$352.00
	97546-WH-CA (5.25 units @ \$336.00 X 1 DOS)		\$336.00
10-14-05	90806	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$119.75
10-14-05	90880 and 90889	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
TOTAL			\$11,831.75

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 **prevailed** on the **majority** of disputed medical necessity issues.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 and 134.202

PART VII: DIVISION DECISION AND ORDER

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 entitled to reimbursement in the amount of **\$11,831.75**. In addition, the Division finds that the requestor was the prevailing party and is entitled to a refund of the IRO fee (**\$460.00**). 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 by:

06-15-06

Authorized Signature

Typed Name

Date of Findings and Decision

Order by:

06-15-06

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.



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:
IRO CASE NUMBER: M5-06-1236-01
NAME OF REQUESTOR: Buena Vista Workskills
NAME OF PROVIDER: Rita Sealy-Wirt, D.C.
REVIEWED BY: Licensed by the Texas State Board of Chiropractic Examiners
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 04/27/06

Dear Buena Vista Workskills:

Professional Associates has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO) (#IRO5288). Texas Insurance Code Article 21.58C, effective September 1, 1997, allows a patient, in the event of a life-threatening condition or after having completed the utilization review agent's internal process, to appeal an adverse determination by requesting an independent review by an IRO.

In accordance with the requirement for TDI-Division of Workers' Compensation (DWC) to randomly assign cases to IROs, DWC has assigned your case to Professional Associates for an independent review. The reviewing physician selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the reviewing physician reviewed relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal.

This case was reviewed by a physician reviewer who is Licensed in the area of Chiropractics and is currently listed on the DWC Approved Doctor List.

I am the Secretary and General Counsel of Professional Associates and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him the provider, 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 Independent Review Organization.

REVIEWER REPORT

Information Provided for Review:

Work hardening daily progress notes from unknown therapists (the signatures were illegible) dated 09/22/05, 09/23/05, 09/26/05, 09/28/05, 09/30/05, 10/03/05, 10/04/05, 10/05/05, 10/06/05, 10/07/05, 10/11/05, 10/12/05, 10/14/05, 10/19/05, 10/20/05, 10/26/05, 10/27/05, 10/28/05, 10/31/05, 11/01/05, 11/11/05, 11/14/05, 11/15/05, 11/17/05, 11/18/05, 11/21/05, 11/22/05, 11/23/05, 11/28/05, 11/29/05, 12/20/05, 12/21/05, 12/22/05, 12/23/05, 12/29/05, 01/16/06, 01/17/06, 01/19/06, 01/20/06, and 01/23/06
A behavioral medicine consultation with Elizabeth Keller, R.N., L.P.C.-I. and Phil Bohart, M.S., L.P.C. dated 07/25/05
Behavioral medicine testing results from Nicole Mangum, Ph.D. and Jeanne Selby, Ph.D. dated 08/24/05
A medical records review from James Claghorn, M.D. dated 09/12/05

Another medical records review from Michael M. Albrecht, M.D. dated 09/13/05

A case conference note from Ms. Keller dated 09/15/05

Massage therapy notes from Veronica V. Banda, R.M.T. dated 09/22/05, 09/30/05, 10/12/05, 10/19/05, 10/27/05, 11/29/05, and 01/19/06

An individual psychotherapy note from Laurence Lee, M.Ps., L.P.C. dated 09/23/05

A work hardening plan note from Buena Vista Workskills dated 09/23/05

Group therapy with Mr. Lee dated 09/26/05, 09/28/05, 10/03/05, 10/04/05, 10/05/05, 10/11/05, 10/12/05, 10/19/05, 10/26/05, 10/27/05, 10/31/05, 11/01/05, 11/21/05, 11/22/05, 11/28/05, 11/29/05, 12/22/05, and 01/17/06

Group therapy with Ms. Keller dated 10/04/05, 10/11/05, and 11/01/05

Psychotherapy notes with Mr. Lee dated 10/05/05, 10/14/05, 11/03/05, 11/22/05, and 01/20/06

Conference notes from Dr. Dutra, Kirk Coverstone, Ph.D., Mr. Valdez, Ms. Keller, and Mr. Lee dated 10/28/05, 11/04/05, and 12/23/05

Psychotherapy notes with Melissa Brown, M.S., L.P.C. dated 11/14/05, 11/15/05, 11/17/05, 11/18/05, 11/22/05, 12/22/05, 12/23/05, and 01/17/06

A Functional Capacity Evaluation (FCE) with Marco A. Valdez, O.T.R. dated 12/02/05

An evaluation with Ms. Keller and Donald Dutra, Jr., M.D. dated 12/14/05

A Physical Performance Evaluation (PPE) with Mr. Valdez dated 02/01/06

Clinical History Summarized:

On 08/24/05, Ms. Mangum and Dr. Selby recommended a low level of individual psychotherapy. On 09/13/05, Dr. Albrecht felt no treatment, including work hardening/work conditioning, after six weeks should have been performed and he recommended a home exercise program, FCE, and RME. Work hardening was performed with unknown therapists from 09/22/05 through 01/23/06 for a total of 40 sessions. Massage therapy was performed with Ms. Banda from 09/22/05 through 01/19/06 for a total of seven sessions. Group therapy was performed with Mr. Lee from 09/26/05 through 01/17/06 for a total of 18 sessions. Psychotherapy was also performed with Mr. Lee from 10/05/05 through 01/20/06 for a total of five sessions. Group therapy was performed with Ms. Brown from 11/14/05 through 01/17/06 for a total of eight sessions. An FCE with Mr. Valdez on 12/02/05 determined the patient could benefit from the remaining two weeks of the work hardening program. On 12/14/05, Ms. Keller and Dr. Dutra recommended two more weeks of work hardening, Robaxin, and a trial of Tylenol and/or Ultram. A PPE with Mr. Valdez on 02/01/06 determined the patient was able to function at the light to light-medium physical demand level and he was returned to work at that level with a home exercise program.

Disputed Services:

A work hardening program (97545-WH and 97546-WH), psychotherapy (90806), hypnotherapy (90880), and preparation of reports (90889) from 09/22/05 through 12/28/05

Decision:

I partially agree with the requestor. The work hardening program and psychotherapy from 09/22/05 through 12/28/05 would be reasonable and necessary. The hypnotherapy (90880) and preparation of reports (90889) from 09/22/05 through 12/28/05 would be neither reasonable nor necessary.

Rationale/Basis for Decision:

The work hardening program (97545-WH and 97546-WH) and psychotherapy (90806) performed from 09/22/05 through 12/28/05 would be considered reasonable and necessary as related to the original injury.

Following passive treatment for the patient's injury, the FCE was performed and the clamant demonstrated functionality at a sedentary job demand level. The patient's type of employment required functionality at a medium job demand level, therefore, it was necessary for the patient to enter into a work hardening program to assist him in returning to the preinjury work status demand level of medium. Periodic FCEs were done throughout the work hardening program to determine the patient's functionality at approximately four and six weeks. Such testing demonstrated the patient's progress to light physical demand level, thereby necessitating the continuation of the

work hardening program in an eight week period of time. With regard to the hypnotherapy and the preparation of reports, I found no documentation indicating any hypnotherapy sessions or necessity for such treatment or any documents that would be considered abnormal with regard to the medical documentation that would warrant additional coding for preparation of reports. Therefore, without additional documentation to support the rationale for the hypnotherapy sessions or the billing for additional preparation of reports outside of the normal medical documentation, I would not recommend those sessions would be reasonable and necessary as related to the original injury.

The rationale for the opinions stated in this report are based on clinical experience and standards of care in the area as well as broadly accepted literature which includes numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician consulting for Professional Associates is deemed to be a Division decision and order.

YOUR RIGHT TO REQUEST A HEARING

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. A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk
TDI-Division of Workers' Compensation
P. O. Box 17787
Austin, TX 78744

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

I hereby verify that a copy of this Independent Review Organization's decision was sent to DWC via facsimile or U.S. Postal Service on 04/27/06 from the office of Professional Associates.

Sincerely,

Amanda Grimes
Secretary/General Counsel