



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.: M5-06-1276-01
<b>TX Workers Rehab (Dr Kamyar Ghaffari)</b> 707 N Riverside Drive Fort Worth TX 76111	Claim No.:
	Injured Worker's Name:
	Date of Injury:
Respondent's Name and Address:	Employer's Name:
	Insurance Carrier's No.:
<b>Texas Mutual Insurance Box 54</b>	

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

DWC-60 package. Position summary: We billed our usual and customary charge.

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

Response to DWC-60 package. Position summary: Texas Mutual requests that the request for dispute resolution filed by WORKERS REHAB IND, be conducted under the provisions of the APA.

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Amount Due (if any)
10-24-05 to 11-21-05	97545-WH and 97546-WH	<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 Resolution Officer

6-2-06

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**

May 31, 2006

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient:

TDI-DWC #:

MDR Tracking #:

IRO #:

M5-06-1276-01

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 MD, 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 Benefits.
4. Lumbar MRI report, 4-12-05.
5. Medical report from Marlon Padilla, MD, 4-19-05.
6. Lumbar x-ray report, 4-28-05.
7. Chiropractic SOAP notes, 4-6-05 through 12-22-05, 54 sessions.
8. Medical reports from James Laughlin DO, 5-2-05 and 5-16-05.
9. Electrodiagnostic report, 6-2-05.
10. Medical report from InSon Stoltz, DC, undated.
11. Initial functional capacity evaluation, 7-15-05.
12. Psychology Group Notes, 7-36-05, 8-2-05, and 8-9-05.
13. Procedure reports, 8-3-05, 8-24-05, 10-6-05,
14. Behavioral Medicine Evaluation, 9-7-05.
15. Psychoeducational/Process Group Note, 9-7-05.
16. Weekly Progress Reports, 8-26-05, 9-9-05, 9-16-05, 9-23-05, 10-28-05, 11-11-05, and 11-18-05.
17. Functional Capacity Evaluation, 10-19-05.
18. Report from Alan Hirschman, MD, 11-14-05.
19. Functional Capacity Evaluation, 11-22-05.
20. Medical report from Francisco Batlle, MD, 11-28-05.
21. Peer review by W. Defoyd, DC, 4-4-06.
22. Carrier's statement, 4-19-06.
23. Treatment History Report.

## CLINICAL HISTORY

4-12-05: Lumbar MRI demonstrated mild desiccation of the disc at L5 and a central contained disc protrusion at L5 measuring approximately 4 mm.

4-19-05: The patient was evaluated by Dr. Padilla. She reported mid-back and low back pain with spasms as well as numbness in her left lower extremity. Physical examination demonstrated full range of motion of the extremities, normal grip strength, and full range of motion of the cervical spine, decreased lumbar flexion, extension, and rotation with evidence of severe spinal pain and muscle spasms. Neurologic assessment was normal in regards to motor testing and sensory testing. SLR was 90° bilaterally. The physician prescribed hydrocodone, Soma, and Oruvail. Diagnoses included lumbar strain, muscle spasms, lumbar radiculitis, SI joint dysfunction and herniated disc.

4-28-05: Lumbar x-ray was unremarkable.

4-6-05 through 12-22-05: The patient attended chiropractic treatment including passive and active treatment measures without measurable improvement noted.

5-2-05: The patient was evaluated by James Laughlin, DO. The patient reported low back pain. Physical examination revealed decreased lumbar range of motion, muscle spasms, tenderness, normal motor and sensory testing, and normal orthopedic testing. Diagnosis was lumbar sprain with trigger points as well as displaced lumbar disc. Trigger point injections were performed without lasting benefit.

6-2-05: Electrodiagnostic testing was unremarkable.

Undated: The patient was evaluated by InSon Stoltz, DC. The patient's mood was normal. There was evidence of pain and muscle spasms in the lumbar paraspinal musculature. Lasegue's, Valsalva's, Milgram's and Ely's were positive. Lumbar flexion was 70°, extension 20°, left lateral flexion 20 degrees, and right lateral flexion 20°. Treatment plan included manipulation, electric stimulation, and traction.

7-15-05: A functional capacity evaluation was performed. Lumbar flexion was reported at 164°, extension 32°, left lateral flexion 37°, left SLR 88°, and right SLR 100°. Left grip strength was 41.9 pounds and right grip strength was 54.4 pounds. NIOSH leg lift was 63.2 pounds, torso lift 63.2 pounds, arm lift 51.3 pounds, and high near lift 69 pounds. Epic lifting demonstrated a knuckle to shoulder lift of 35 pounds, floor to knuckle lift of 30 pounds, and floor to shoulder lift of 35 pounds. Bruce treadmill testing was rated poor.

7-46-05 through 8-9-05: Psychometric testing was implemented.

8-3-05: L5-S1 epidural steroid injection was performed.

8-24-05: A right L5 and right S1 selective nerve root block was performed.

9-7-05: A Behavioral Medicine Evaluation was performed. Pre-injury psychiatric treatment included Zoloft for depression. Disability index was rated as crippling. MSPQ was 25. Modified Zung was 50. Diagnoses included major depression, low back injury, chronic, and moderate stress. GAF was 52. Group therapy was recommended as well as increased dosage of Zoloft.

8-26-05 through 9-23-05: WHP was performed.

10-6-05: SI joint injection was performed.

10-19-05: A Functional Capacity Evaluation was performed. The patient was taking hydrocodone and Zoloft. She reported burning, throbbing, stabbing, sharp, and stinging low back pain and right leg pain. Symptoms were aggravated with 'simple everyday activities' such as standing, sitting, and walking. Lumbar flexion was 30°, extension 16°, right lateral flexion 24°, and left lateral flexion 10°. Right SLR was 66° and left SLR was 56°. Left grip strength was 41.3 pounds and right grip strength was 37.7 pounds. Dynamic lifting abilities ranged between 15 pounds and 25 pounds.

10-28-05 through 11-18-05: Additional Work Hardening was performed after more than a month layoff.

11-22-05: A Functional Capacity Evaluation was performed. The patient reported constant burning, throbbing, stabbing, sharp, and stinging low back pain with radiation into her right lower extremity. Pain was aggravated by 'simple everyday daily activities' such as standing, sitting, and walking. Lumbar flexion was 17°, extension 11°, right lateral flexion 5°, and left lateral flexion 16°. Right SLR was 57° and left SLR was 62°. Left grip strength was 42 pounds and right grip strength 41.3 pounds. Dynamic lifting ranged between 11 pounds and 20 pounds.

11-28-05: The patient was evaluated by Francisco Batlle, MD. She reported low back pain rated 8/10 aggravated by sitting, standing, coughing, sneezing, and Valsalva maneuvers. Medications included Soma, hydrocodone, and Zoloft. He recommended weight reduction and consideration for CT discogram.

4-4-06: A peer review was performed by W. Defoyd, DC. He did not believe the Work Hardening Program from 10-24-05 through 11-21-05 was reasonable or necessary.

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

Under dispute is the retrospective medical necessity of work hardening program 97545 and 97456.

### **DETERMINATION/DECISION**

The Reviewer agrees with the determination of the insurance company.

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

The Work Hardening Program was not reasonable or necessary for two reasons. First, the documentation fails to demonstrate adequate objective functional improvement as a result of the treatment performed between 10-24-05 and 11-21-05. In fact, The Patient's overall functional status deteriorated according to the functional capacity evaluations. Functional restoration is the mainstay of medical necessity. Without objective and quantified functional restoration, a treatment strategy can not be supported. Second, a limited potential to benefit is one of the discharge criteria of a Work Hardening Program. Due to the failure of the initial course of Work Hardening, there was a very limited potential to benefit with continuation. Because The Patient did not subjectively, objectively, or functionally benefit from the initial trial of Work Hardening, she should have been discharged from the program.

### **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 31<sup>st</sup> day of May, 2006.**

**Name and Signature of IRO America Representative:**

Sincerely,  
**IRO America Inc.**

A handwritten signature in black ink, appearing to read "Roger Glenn Brown", with a long horizontal flourish extending to the right.

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