



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 and Fee 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 TX 75231	MDR Tracking No.: M5-06-1427-01
	Claim No.:
	Injured Worker's Name:
Respondent's Name: Hartford Underwriters Insurance Rep Box # 27	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.: YHZC 78505

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary: Per the Table of Disputed Services, "Services were medically necessary."

- Principle Documentation:
1. DWC-60 package
 2. CMS 1500s
 3. EOBs

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary: None received.

Principle Documentation: No response received to the DWC-60 package.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Amount Due (if any)
5-24-05, 5-26-05, 6-1-05, 6-2-05, 6-3-05	97545-WH-CA 97546-WH-CA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
			\$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.

Based on review of the disputed issues within the request, the Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by Medical Dispute Resolution (MDR).

On 5-10-06, MDR submitted a Notice to Requestor to submit additional documentation necessary to support the charges

and to challenge the reasons the Respondent had denied reimbursement within 14 days of the Requestor's receipt of the Notice.

Respondent denied the work hardening program for DOS 5-23-05, 5-25-05, and 6-6-05 with ANSI code "62-payment denied/reduced for absence of, or exceeded, pre-certification/authorization. Procedure not approved by pre-authorization." The Requestor is CARF-accredited; therefore, per Rule 134.600(h)(9), preauthorization is not required. The Respondent inappropriately denied the CARF-accredited work hardening program for these DOS. A Legal and Compliance referral will be made against the Respondent for violation of Rule 134.600 (h)(9).

No reimbursement is recommended due to the IRO decision that states, "...The documentation fails to establish the medical necessity for the continuation of work hardening..." Per Rule 133.308(p)(5), the IRO decision is a Division decision.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

Texas Labor Code Sec. 413.031
28 Texas Administrative Code Sec. 134.1, 133.308, 134.202, 134.600

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

8-28-06

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

Date:	06/28/2006
Injured Employee:	
MDR #:	M5-06-1427-01
DWC #:	
MCMC Certification #:	TDI IRO-5294

REQUESTED SERVICES:

Please review the item(s) in dispute: Work hardening 97545-WHCA, 97546-WHCA for dates of service 05/24/2005, 05/26/2005, 06/01/2005, 06/02/2005 and 06/03/2005 denied as "V-not medically necessary with Peer Review". Do not review items marked fee.

DECISION: Upheld

IRO MCMC11c (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 06/28/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity for the items in dispute, for dates of service listed above is not established.

CLINICAL HISTORY:

Records indicate that the above captioned individual, a 44-year old female, was injured as a result of a work related incident reportedly occurring on 10/___/2004. The history reveals that she slipped on a stair and fell down approximately seven stairs. The history further indicates that she reported hitting the back of her head on two stairs. She initially went to Texas Med Clinic on 10/20/2004 where elbow x-rays were negative for fracture. X-rays of the skull were also negative for fracture. She was given medication management including anti-inflammatories. MRI exam of the left elbow showed triceps tendinopathy and osteoarthritis. A cervical spine MRI revealed a disc bulge at C3/C4 with no evidence of foraminal encroachment. Electrodiagnostic testing dated 12/30/2004 indicated a left cubital tunnel syndrome and possible C5/C6 radiculitis. A Functional Capacity Exam (FCE) dated 01/25/2005 revealed that the injured individual was performing below her job required physical demand level (PDL) of medium. Psychological testing revealed psychosocial issues including anxiety and depression. A course of work hardening was initiated on 03/21/2005. An FCE dated 06/09/2005 deemed that the injured individual was functioning at or near her required PDL and a work release was issued.

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 continuation of work hardening beginning 05/24/2005. Generally accepted guidelines, including the ACOEM guidelines, suggest that 20 sessions of work hardening represent a typical and comprehensive course of care for work hardening. For additional participation in a work hardening program beyond 20 sessions, the documentation should substantiate that both progress has been made and that lingering deficits still exist. Furthermore, there should be a reasonable expectation of additional therapeutic gain. In this particular case, the documentation does not reflect any interim exam or physical performance testing between 04/12/2005 and 06/09/2005. Therefore, the documentation does not establish that there was ongoing therapeutic gain during this two month period. Furthermore, as of 04/12/2005, the documentation establishes that the injured individual was testing well into the medium physical demand category range. Additionally, range of motion testing on that date revealed that the injured individual was more or less at competitive or above competitive levels. In fact, ranges of motion were more or less within normal limits with few exceptions. Endurance testing was also at competitive or above competitive levels as of 04/12/2005. Therefore, the course of ongoing work hardening from 04/12/2005 through 05/23/2005 should have been a more than adequate course of treatment to address any minimal remaining objective deficits. The documentation does not establish that care from 05/24/2005 and beyond would have been reasonably expected to produce additional therapeutic gain beyond what had already been achieved, demonstrated or perceived.

Given the minimal remaining objective deficits as of 04/12/2005, the physical demand category demonstrated and the lack of interim testing between 04/12/2005 and 06/09/2005, the medical necessity for the above captioned course of care is not established.

RECORDS REVIEWED:

- Notification of IRO Assignment dated 05/11/06
- MR-117 dated 05/11/06
- DWC-60
- DWC-69: Reports of Medical Evaluation with Date of Exams 11/17/05, 06/10/05
- DWC-73: Work Status Reports dated 03/09/06, 01/08/06, 03/01/05, 06/09/05 and one with return to work date of 11/17/04
- MCMC: IRO Medical Dispute Resolution M5 Retrospective Medical Necessity dated 06/01/06
- MCMC: IRO Acknowledgment and Invoice Notification Letter dated 05/11/06
- Consult Note (handwritten) dated 03/08/06
- Donald F. Dutra, Jr., M.D.: Letter of Medical Necessity dated 01/23/06
- Churchill Evaluation Centers: Report of Medical Evaluation dated 11/17/05 from Jeremias Abuerne, M.D.

- The Hartford Medical Management Center: Explanation of Reimbursements dated 10/12/05, 08/08/05, 07/28/05, 06/30/05
- Physician Management Services: Letter dated 09/09/05 from Clara Pou, Manager
- Kirk Coverstone, Ph.D.: Psychotherapeutic Group Note dated 04/13/05
- Alpine Healthcare: Work Hardening Appeal Letter dated 03/09/05 from Rita Sealy, D.C.
- Alpine Healthcare: Fax cover sheets dated 03/09/05, 02/11/05
- Buena Vista WorkSkills: Massage Therapy Notes dated 03/24/05, 04/07/05, 04/21/05, 04/27/05, 05/23/05, 06/03/05 from Veronica Banda, R.M.T.
- Buena Vista WorkSkills: Group Psychotherapy Progress Notes dated 03/24/05 through 06/06/05 from Melissa Brown, M.S.
- Buena Vista WorkSkills: Group Psychotherapy Progress Notes dated 03/22/05 through 06/03/05 from Elizabeth Keller, M.S.
- Buena Vista Work Skills: Work Hardening Daily Progress Notes dated 03/21/05 through 06/06/05
- The Hartford: Review Determination dated 02/24/05
- UniMed Direct: Physician Advisor Referral Form dated 02/24/05
- Alpine Healthcare: Medical Necessity for Translation Services dated 02/17/05, 01/03/05, 12/10/04
- Donald Dutra, Jr., M.D.: Prescription note dated 02/09/05
- Donald F. Dutra, Jr., M.D.: Follow Up Evaluation dated 02/03/05
- Donald F. Dutra, M.D.: Validation of Proposed Treatment Plan dated 02/01/05
- Work Recovery, Inc: ERGOS Evaluation Summary Reports dated 01/25/05, 06/09/95, 04/12/95 from Rita Sealy, D.C.
- Clinical Notes S.O.A.P. Notes dated 01/19/05, 01/26/05, 02/21/05, 04/12/05, 06/09/05, 11/16/05, 11/16/04, 12/29/04 from Rita Sealy-Wirt, D.C.
- Hill Country Behavioral Health & Pain Management: Behavioral Medicine Consultation dated 12/22/04 from Elizabeth Keller, RN and Phil Bohart, MS
- Hillcrest Chiropractic Center: MMI & IR Examination Report dated 06/17/05 from Shawn Fyke, D.C.
- Donald F. Dutra, Jr., M.D.: EMG/NCS study dated 12/30/04
- Premier Medical Imaging: MRI cervical spine dated 12/27/04
- Southwest Open MRI: MRI left elbow dated 12/17/04
- Texas MedClinic: Encounter Notes dated 11/10/04, 11/03/04, 10/27/04, 10/20/04 from Charles Rodela, M.D.
- Texas MedClinic: Admission notes (handwritten) dated 11/10/04, 11/03/04, 10/27/04, 10/20/04
- Texas MedClinic Work Status Reports dated 11/10/04, 11/03/04, 10/27/04, 10/20/04
- Health Insurance Claim Form dated 11/04/04
- Patient Information sheet dated 10/20/04
- Work Hardening Daily Flow Sheets - Weeks 1 through 8
- United States Postal Service undated Delivery Confirmation
- Article entitled, "Disposable (??) Disk Electrodes with 1.0m Leads"

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

__28th__ day of __JUNE__ 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____

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