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

Requestors Name and Address: Rehab 2112 P O BOX 671342 Dallas, Texas 75267-1342	MDR Tracking No.: M5-06-1501-01 Claim No.: Injured Employee's Name:
Respondent's Name and Address: Fidelity & Guaranty Insurance Rep Box # 19	Date of Injury: Employer's Name: Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: DWC-60 dispute
POSITION SUMMARY: Per the table of disputed services "services were medically necessary".

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60
POSITION SUMMARY: "A review of the service was performed and subsequently denied based on the medical information provided by the injured worker's attending physician. The medical information submitted does not substantiate the need for the health care recommended. Therefore, the request was determined not to be medically necessary".

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
06-02-05 to 08-03-05	97545-WH-CA, 97546-WH-CA and 97750-FC	☐ Yes ☒ 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 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:

		05-17-06
Authorized Signature		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.

CompPartners Final Report

URAC ACCREDITED EXTERNAL REVIEW

CompPartners Peer Review Network
Physician Review Recommendation
Prepared for TDI/DWC

Claimant Name: ___
Texas IRO #: ___
MDR #: M5-06-1501-01
Social Security #: ___
Treating Provider: John South, DC
Review: Chart
State: TX
Date Completed: 5/15/06

Review Data:

- **Notification of IRO Assignment dated 4/27/06, 1 page.**
- **Receipt of Request dated 4/27/06, 1 page.**
- **Medical Dispute Resolution Request / Response dated 4/11/06, 1 page.**
- **List of Treating Providers (date unspecified), 1 page.**
- **Table of Disputed Services dated 8/3/05, 8/2/05, 8/1/05, 7/27/05, 7/26/05, 7/25/05, 7/22/05, 7/21/05, 7/20/05, 7/19/05, 7/18/05, 7/15/05, 7/14/05, 7/13/05, 7/12/05, 7/11/05, 7/8/05, 7/6/05, 7/5/05, 7/1/05, 6/30/05, 6/29/05, 6/28/05, 6/27/05, 6/24/05, 6/23/05, 6/22/05, 6/21/05, 6/20/05, 6/17/05, 6/16/05, 6/15/05, 6/14/05, 6/13/05, 6/10/05, 6/9/05, 6/8/05, 6/7/05, 6/3/05, 6/2/05, 9 pages.**
- **Explanation of Benefits dated 8/3/05, 8/2/05, 8/1/05, 7/27/05, 7/26/05, 7/25/05, 7/22/05, 7/21/05, 7/20/05, 7/19/05, 7/18/05, 7/15/05, 7/14/05, 7/13/05, 7/12/05, 7/11/05, 7/8/05, 7/6/05, 7/5/05, 7/1/05, 6/30/05, 6/29/05, 6/28/05, 6/27/05, 6/24/05, 6/23/05, 6/22/05, 6/21/05, 6/20/05, 6/17/05, 6/16/05, 6/15/05, 6/14/05, 6/13/05, 6/10/05, 6/9/05, 6/8/05, 6/7/05, 6/3/05, 6/2/05, 30 pages.**
- **MDR Request dated 3/17/06, 5 pages.**
- **Electrodiagnostic Report dated 10/25/04, 4 pages.**
- **Right Shoulder MRI Scan dated 10/26/04, 2 pages.**
- **Right Elbow MRI Scan dated 10/26/04, 1 page.**
- **TWCC Preauthorization Exemption for CARF Accredited Facilities with Work Conditioning and Work Hardening Programs (date unspecified) 2 pages.**
- **Health Insurance Claim Form dated 8/3/05, 8/2/05, 8/1/05, 7/27/05, 7/26/05, 7/25/05, 7/21/05, 7/19/05, 7/18/05, 7/15/05, 7/14/05, 7/13/05, 7/12/05, 7/11/05, 7/8/05, 7/6/05, 7/5/05, 7/1/05, 6/30/05, 6/29/05, 6/28/05, 6/27/05, 6/24/05, 6/23/05, 6/22/05, 6/20/05, 6/17/05, 6/16/05, 6/15/05, 6/13/05, 6/10/05, 6/9/05, 6/8/05, 6/7/05, 6/2/05, 27 pages.**
- **Return Receipt dated 1/5/06, 1 page.**
- **Daily Note dated 8/3/05, 8/2/05, 8/1/05, 7/29/05, 7/28/05, 7/27/05, 7/26/05, 7/25/05, 7/22/05, 7/21/05, 7/20/05, 7/19/05, 7/18/05, 7/15/05, 7/14/05, 7/13/05, 7/12/05, 7/11/05, 7/8/05, 7/7/05, 7/6/05, 7/5/05, 7/1/05, 6/30/05, 6/29/05, 6/28/05, 6/27/05, 6/24/05, 6/23/05, 6/22/05, 6/21/05, 6/20/05, 6/17/05, 6/16/05, 6/15/05, 6/14/05, 6/13/05, 6/10/05, 6/9/05, 6/8/05, 6/7/05, 6/6/05, 6/3/05, 6/2/05, 160 pages.**
- **Psychology Group Note dated 8/3/05, 7/27/05, 7/20/05, 7/13/05, 7/7/05, 6/29/05, 6/22/05, 6/17/05, 6/8/05, 9 pages.**
- **Physical Limitation Report dated 7/20/05, 7/13/05, 7/7/05, 6/29/05, 6/15/05, 6/8/05, 6 pages.**
- **Patient Release Worksheet (date unspecified), 1 page.**
- **Impairment Rating/ FCE Billing Form dated 5/4/05, 7/21/04, 2 pages.**
- **Functional Capacity Evaluation dated 6/24/05, 5/4/05, 19 pages.**
- **D/C Summary dated 8/3/05, 4 pages.**
- **Visual Pain Rating Scale and Pain Diagram (date unspecified), 1 page.**
- **Injury Impact Questionnaire dated 7/18/05, 3 pages.**
- **Appointment Reminder dated 6/13/05, 1 page.**
- **Missed Appointment dated 6/6/05, 1 page.**
- **Authorization dated 12/4/04, 1 page.**

- **Discharge Summary dated 12/5/04, 4 pages.**
- **Operative Report dated 12/5/04, 2 pages.**
- **Chest X-ray dated 12/10/04, 12/9/04, 12/8/04, 12/7/04, 12/6/04, 6 pages.**
- **US Duplex Venous Bilateral dated 12/10/04, 1 page.**
- **Neck CT scan dated 12/5/04, 2 pages.**
- **Office Visit dated 1/18/05, 1 page.**
- **Prescription dated 1/17/05, 1 page.**
- **Referral dated 1/10/05, 11/2/04, 3 pages.**
- **Fax Cover Sheet dated 11/23/04, 11/14/05, 11/2/04, 3 pages.**
- **Acknowledgement of Receipt of Notice dated 12/27/04, 1 page.**
- **Personal and Demographic Information (date unspecified), 1 page.**
- **Current Medical Problem (date unspecified), 1 page.**
- **Medical History (date unspecified), 1 page.**
- **Critical Item Questionnaire dated 12/27/04, 1 page.**
- **Summary of Maximal Physical Job Demands (date unspecified), 1 page.**
- **Informed Consent (date unspecified), 1 page.**
- **Questionnaire (date unspecified), 1 page.**
- **Authorization and Assignment of Cause of Action dated 12/27/04, 2 pages.**
- **Rehab Fee Schedule dated 12/27/04, 1 page.**
- **Notes dated 6/6/05, 4/26/05, 4/18/05, 1 page.**
- **Notice of TWCC Compensability dated 12/27/04, 1 page.**
- **Office Visit dated 12/27/04, 2 pages.**
- **Medical Consultation dated 11/1/04, 3 pages.**
- **Second Opinion and Medical Evaluation dated 10/22/04, 4 pages.**
- **Consultation dated 1/4/05, 2 pages.**
- **Recheck dated 12/2/04, 11/11/04, 4 pages.**
- **Right Elbow X-ray dated 10/22/04, 1 page.**
- **Right Shoulder X-ray dated 10/22/04, 1 page.**
- **SOAP Note dated 7/19/05, 7/5/05, 6/28/05, 6/21/05, 6/14/05, 6/7/05, 5/31/05, 5/24/05, 1/3/05, 12/31/04, 12/27/04, 12/23/04, 12/3/04, 11/29/04, 11/26/04, 11/22/04, 11/17/04, 11/15/04, 11/12/04, 11/10/04, 11/8/04, 11/5/04, 11/3/04, 11/1/04, 10/29/04, 10/27/04, 10/25/04, 27 pages.**
- **Patient Satisfaction Survey dated 12/20/04, 11/19/04, 2 pages.**
- **Musculoskeletal Examination dated 12/20/04, 11/19/04, 10/22/04, 6 pages.**
- **Correction Sheet dated 11/23/04, 1 page.**
- **Request for Missing Information dated 11/22/04, 1 page.**
- **Internal Radiographic Report dated 10/22/04, 1 page.**
- **Initial Report dated 10/26/04, 3 pages.**
- **Legal Letter dated 5/5/06, 2 pages.**
- **Claim Notebook dated 7/18/04, 20 pages.**
- **Texas Workers' Compensation Work Status Report dated 6/7/05, 1 page.**
- **Request for Reconsideration dated 6/3/05, 1 page.**

Reason for Assignment by TDI/DWC: Determine the appropriateness of the previously denied request for work hardening program and functional capacity evaluations from dates of service 6/2/05 to 8/3/05.

Determination: UPHELD – the previously denied request for work hardening program and functional capacity evaluations from dates of service 6/2/05 to 8/3/05.

Rationale:

Patient's age:
Gender:
Date of Injury: ___
Mechanism of Injury: While attempting to take a car battery from the top shelf, the battery fell, jerking his right arm and injuring the right shoulder and right elbow.

Diagnoses: Right shoulder degenerative joint disease, right supraspinatus tendinosis, right shoulder traumatic anterior impingent syndrome and right elbow contusion and sprain.

This right hand dominant male was reportedly 5 feet 10 inches tall, weighing 312 pounds. A nerve conduction velocity (NCV) study was performed on 10/25/04, which revealed moderate systemic peripheral neuropathy of the bilateral upper extremities, affecting the sensory and motor components of the nerves. The neuropathy was consistent with that of diabetes or B-vitamin deficiency, and consultation with a primary care provider was recommended. An MRI scan of the right shoulder on 10/26/04 indicated mild-to-moderate degeneration of the acromioclavicular joint and mild-to-moderate tendonitis of the supraspinatus tendon with mild-to-moderate sub-deltoid bursal fluid. An MRI scan of the right elbow on 10/26/04 indicated appearance of multiple loose bodies, which was stated as "most likely synovioschondrometaplasia within the elbow joint", and an orthopedic consultation was advised. This consultation occurred on 11/11/04 with Robert Chouteau, D.O. and his PA. The examination revealed good range of motion of the right shoulder and elbow with positive Neer Hawkins sign of the right shoulder, positive O'Brien's test, and negative Tinel's in both. The notes from REHAB 2112 on 1/7/05 indicated that a work hardening evaluation was performed. His physician, Gregory Foster, M.D., a pulmonary disease specialist, on 1/17/05 indicated that he could not perform a work hardening program, and his prescription was for light rehabilitation, stretching, walking, etc. due to deep venous thrombosis unrelated to this injury, but related to a retropharyngeal abscess that landed him in intensive care unit. The notes from 6/2/05 indicated that the patient was participating in a work hardening program and reported constant 6/10 pain in the right shoulder. The notes from July of 2005 indicated that he was participating in the work hardening program with intermittent 4/10 pain scale as of 7/25/05, and also seeing a psychologist Kenneth Wise, Psy. D. The notes from 8/3/05 indicate d intermittent 5/10 pain in the right shoulder. On 8/2/05, he had 2/10 pain in the right shoulder. The patient had a functional capacity evaluation on 1/10/05, and was at a medium duty demand level for a medium-to-heavy job demand level. On 7/18/05, he was at medium-to-heavy duty demand level for a medium-to-heavy demand job level. He had decreased ranges of motion documented on 7/18/05 of right shoulder at 27 percent forward flexion, abduction at 26 percent, adduction at 10 percent, internal rotation at 39 percent, external rotation at 16 percent, and right elbow flexion at 21 percent – all of which were improved from June of 2005. On the functional capacity evaluation on 8/3/05, the patient had normal ranges of motion in the right elbow and right shoulder, but decreased demand level back down to the medium category. The current request is to determine the medical necessity for disputed services of work hardening program and functional capacity evaluations from 6/2/05 through 8/3/05. The medical necessity for this request is not found at this time. This claimant had a significant amount of physical therapy since the time of his injury, and light work conditioning/hardening from January of 2005 to at least June of 2005. This claimant was also having significant unrelated illnesses, which were, again, not related to the right elbow or right shoulder in any way that could be determined from the documentation provided. In fact, on 11/11/04, the examination by Robert Chouteau, D.O. and his PA revealed good range of motion of the right shoulder and elbow, with positive Neer Hawkins sign of the right shoulder, positive O'Brien's test, and negative Tinel's in both. There was no surgery performed on the right shoulder or elbow, and no reason in particular was identified in the documentation that he had any muscle weakness or reflex deficits, or why he could not perform home exercises, as indicated in the ACOEM Guidelines, Chapters 9 and 10, to address any residual functional deficits regarding ranges of motion that may have waxed and waned from December of 2004 to 8/3/05. Additionally, the ACOEM Guidelines, on page 138, indicate that a functional capacity evaluation can be a deliberately simplified evaluation based on multiple assumptions and subjective factors that are not always apparent for the requesting physician. There is little scientific evidence confirming that a functional capacity evaluation predicate an individual's actual capacity to perform in a workplace. The functional capacity evaluation reflects what an individual can do on a single day at a particular time under controlled circumstances that provides an indication of that individual's ability. There were occasions on this patient's functional capacity evaluation that he quit the testing due to psychological reasons. Therefore, based upon all of the foregoing, the previously denied request for work hardening program and functional capacity evaluations from dates of service 6/2/05 to 8/3/05 will be upheld.

Criteria/Guidelines utilized: TDI/DWC Rules and Regulations.
ACOEM Guidelines, 2nd Edition, Chapters 9 and 10.

Physician Reviewers Specialty: Chiropractor

Physician Reviewer's Qualifications: Texas Licensed D.C., and is also currently listed on the TDI/DWC ADL list.

CompPartners, Inc. hereby certifies that the reviewing physician or provider has certified that no known conflicts of interest exist between that provider 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 the decision before the referral to CompPartners, Inc.

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 appeal able. 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.