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: Buena Vista Workskills 5445 La Sierra Drive # 204 Dallas, Texas 75231	MDR Tracking No.: M5-06-1548-01 Claim No.: Injured Employee's Name:
Respondent's Name and Address: Continental Casualty 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

POSITION SUMMARY: "In summary, it is our position that CAN has established an unfair and unreasonable time frame in paying for the services that were rendered to Ms. ___".

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60

POSITION SUMMARY: "In conclusion the Carrier contends that the work hardening program was not medically necessary in light of the physical therapy already received prior to the Work Hardening Program. Medical records from Dr. Saldana indicate the claimant could return to work for her hand injury. The Designated Doctor previously accessed a zero impairment for the hand injury. Peer review indicates the compensable hand injury resolved".

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
12-01-05 to 01-31-06	97545-WH-CA, 97546-WH-CA, 97010 and 97032	☐ Yes ☒ No	$0.00
12-13-05	97750-FC ($35.63 per unit X 7 units)	☒ Yes ☐ No	$249.41
	TOTAL		$249.41

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 **majority** of the 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 $249.41. In addition, the Division finds that the requestor was not the prevailing party and is not entitled to a refund of the IRO fee. 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.

Ordered by:

		06-19-06
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.

IMED, INC.

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Office 972-381-9282 • Toll Free 1-877-333-7374 • Fax 972-250-4584
e-mail: imeddallas@msn.com

NOTICE OF INDEPENDENT REVIEW

NAME OF EMPLOYEE: ___
IRO TRACKING NUMBER: M5-06-1548-01
NAME OF REQUESTOR: Buena Vista Work Skills
NAME OF CARRIER: Continental Casualty Company
DATE OF REPORT: 05/31/06
AMENDED DATE OF REPORT: 06/16/06
IRO CERTIFICATE NUMBER: 5320

TRANSMITTED VIA FAX TO:

IMED, Inc. has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO).

In accordance with the requirement for TDI to randomly assign cased to IROs, TDI has assigned your case to IMED, Inc. for an independent review. The peer reviewer selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the peer reviewer 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.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by a chiropractic physician reviewer who is a Doctor of Chiropractic Medicine and is currently listed on the DWC approved doctor list.

I am the Secretary and General Counsel of IMED, Inc., 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 and the provider, the injured employee, 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. I further certify that no conflicts of interest of any nature exist between any of the aforementioned parties and any director, officer, or employee of IMED, Inc.

REVIEWER REPORT

I have reviewed the records forwarded on the above injured worker and have answered the questions submitted.

Information Provided for Review:

- Concentra Medical Centers dated through 07/11/05.
- Miguel Saldana, M.D., dated 03/01/05 through 07/07/05.
- Rita Sealy-Wirt, D.C., dated 08/22/05 through 10/20/05.
- Behavior medicine evaluation, Buena Vista Work Skills, dated 09/09/05.
- Donald Dutra, M.D., dated 09/14/05 through 10/27/05.
- Required Medical Evaluation (RME) from Casey Cochran, D.O., dated 11/22/05.
- Buena Vista Work Skills, dated 10/24/05 through 12/13/05.
- Alta Vista Health Care, dated 01/21/06 through 03/28/06.
- EMG/NCV, dated 02/09/06.

Clinical History Summarized:

The injured employee was 63 years old when she sustained a slip and fall injury. She fell on top of some pallets and fell on her hands and knees.

The injured employee was first seen at Concentra Medical Center by Benton Zwart, M.D., who diagnosed hand contusions and sprain, knee abrasion, and knee contusion. Dr. Zwart recommended conservative care and physical medicine rehabilitative therapies were initiated.

A hand surgeon consultation with Miguel Saldana, M.D., began in March, 2005. Dr. Saldana initially provided injections. When these injections did not prove to be efficacious, he performed A-1 pulley release of the right long finger.

The injured employee then opted to change treating doctors to Rita Sealy-Wirt, D.C. Physical medicine and rehabilitative therapies were provided between 08/22/05 and 10/20/05 including both passive and active therapies.

A behavioral medicine evaluation on 09/09/05 advocated a return to work program in the form of work hardening.

In the meantime, a physical medicine and rehabilitation with Donald Dutra, M.D., in September, 2005 also recommended work hardening, as well as an upper extremity electrodiagnostic evaluation.

A Designated Doctor Evaluation was performed by Leslie Bishop, M.D., on 09/15/05, and the injured employee was placed at Maximum Medical Improvement (MMI) and was awarded an impairment rating of 0% whole person.

A Required Medical Evaluation (RME) was performed by Casey Cochran, D.O., noted that for all intents and purposes the injured worker's condition had reached a static and stable end treatment point, and there was no need for ongoing care. The continuation of formal therapy was not supported utilizing evidence-based treatment guidelines and occupational medicine practice guidelines from the American College of Occupational and Environmental Medicine. Dr. Cochran also recommended the claimant return to some type of work.

Instead of discontinuing care, the injured employee was started on a work hardening program and participated in this program at Buena Vista Work Skills from 10/24/05 through 12/13/05.

There was no Functional Capacity Evaluation (FCE) available for review; however, a Physical Performance Evaluation provided at Alta Vista Health Care on 01/31/06 noted that there continued to be motor weakness in the right upper extremity with decreased range of motion and positive orthopedic findings. Additional outpatient care was provided at Alta Vista Health Care from 01/31/06 through 03/28/06 including both passive and active therapies.

Finally, a repeat EMG/NCV was performed by Dr. Dutra on 02/09/06, which noted no evidence of neuritis. The EMG noted some evidence of radiculopathy in the lower extremity. Dr. Dutra recommended a triple phase bone scan of the tibialis forelegs due to her unrelenting pain, and that she was scheduled to have a Benefits Review Conference to discuss issues concerning compensability.

Disputed Services:

Work hardening (97545-WH-CA), work hardening each additional hour (97546- WH-CA), Function Capacity Evaluation (97750-FC), hot/cold pack therapy (97010), and electrical stimulation (97032). Dates of Service 12/01/05-1/31/06

Decision:

Work hardening and the additional hours per day were reasonable for a period of two weeks (10/24/05-11/07/05). Once it was noted that the employee had made no progress, this program should have been discontinued. The initial FCE was reasonable to determine entrance criteria. An interim FCE should have been performed in two weeks, which at that time would have noted the employee had made no progress. This would then become the final FCE, and therefore, the FCE performed in December would have been reasonable as the final.

The hot/cold pack therapy and electrical muscle stimulation palliative devise are passive only devices and would be reasonable in conjunction with an active care program. However,the reinitiation of primary care following a work hardening program was not reasonable.

1. Work hardening (97545 WH-CA). Records show that work hardening was provided at Buena Vista Work Skills from 10/24/05 through 12/13/05. Although there was no FCE available for review, it is presumed that one was performed since failure to perform such an evaluation would not show that the injured worker would meet entrance criteria for participation in such a program. This program appears to have been provided for at least a six week time period, and that the injured worker's job required work in the medium physical demand category. Review of the documentation noted that as late as 12/13/05, the injured worker's current physical demand level was unchanged from the beginning of the program. She was only able to perform at a sedentary category when she began and was at the sedentary category upon termination.

   Therefore, the full amount of time in which the injured worker participated in the work hardening program was not reasonable, given that she did not show any evidence of improvement, this should have been discontinued after a two week time period. This would have been an end treatment date for work hardening on or about 11/07/05.

2. Work hardening each additional hour (97546 WH-CA). This would go hand in hand with the prior recommendation for only two weeks of work hardening. Typically, a work hardening program is a six to eight hour course. The first week can have as little as six hours, but then should be transitioned to forty hour program. The first two hours are billed as a whole, and each additional hour is billed beyond that timeframe.

   Therefore, as stated previously, a work hardening program would be reasonable for two weeks, or until November 7, 2005

3. Functional Capacity Evaluation (97750-FC). There was no initial FCE available for review. One is necessary in order to determine whether the claimant would meet entrance criteria. It is presumed one was performed shortly before the claimant entered the work hardening program at Buena Vista Work Skills. Further, there is typically an interim FCE performed if the work hardening program exceeds four weeks, and a final or terminal FCE upon completion of the program.

   Therefore, this service is reasonable in this case for a maximum of two examinations, the initial in October and the final being December 13, 2005.

4. Hot/Cold Pack Therapy (97010). It is presumed that this refers to the services provided at Alta Vista Health Care once the employee had completed the six week course of work hardening. It appears that services were provided in the form of several modalities including hot packs and electrical stimulation which will be commented on later. The application of this particular therapy would be reasonable in conjunction with an active exercise program. However, since the primary care is being reinitiated following a course of work hardening, this would not meet medical necessity criteria. There is no need to return to primary based care after tertiary level program unless additional medical services have been provided such as surgery.

   Therefore, hot/cold pack therapy did not meet medical necessity criteria.

5. Electrical Stimulation (97032). As with hot/cold pack therapy, this is reasonable in conjunction with an active care program. However, since the employee had already completed a tertiary work program, there is no need for the reinitiation of this type of treatment, and this does not meet medical necessity criteria.

Rationale/Basis for Decision:

The rationale for determining that only the initial two weeks of work hardening were reasonable is based on the fact that the employee made absolutely no progress. With respect to the program, the employee did not improve her physical demand category whatsoever. She began the program in the sedentary category and did not move out of that physical demand level. Therefore, she should have been transitioned into a different care plan, possibly physician-based. There is certainly no need for reinitiation of primary based care after a tertiary level program had been introduced.

The employee was injured in ___, and physical medicine and rehabilitative therapies were reinitiated on her lower extremities in , one year later. There was insufficient diagnostic testing to note that there is significant soft tissue pathology that would require ongoing supervised care at that late date or that there was any significant trauma whatsoever outside of a contusion injury.

The rationale for the opinion stated in this report is based on the record review, as well as the broadly accepted literature to include 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 with IMED, Inc. is deemed to be a DWC decision and order.

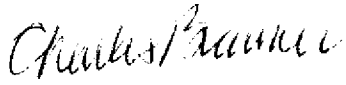
YOUR RIGHT TO REQUEST A HEARING

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, 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 thirty (30) days after the date on which the decision that is the subject of the appeal is final and appealable.

I hereby verify that a copy of this Independent Review Organization's decision was sent to the DWC via facsimile or U.S. Postal Service this 5th day of June, 2006 from the office of IMED, Inc.

Sincerely,



Charles Brawner
Secretary/General Counsel