



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

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier	
Requestor's Name and Address:	MDR Tracking No.: M5-06-1839-01
North Texas Pain Recovery Center 6702 West Poly Webb Road Arlington, Texas 76016	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
Liberty Insurance Corp, Box 28	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary (Table of Disputed Services): "Treatment Medically Necessary."

Principle Documentation:

1. DWC-60/Table of Disputed Services/Position Summary
2. CMS-1500's
3. EOBs

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary (Table of Disputed Services): "Not Medically Necessary Per Peer Review..."

Principle Documentation:

1. DWC-60/Table of Disputed Services

PART IV: SUMMARY OF DISPUTE AND FINDINGS - Medical Necessity Services

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
9-6-05 – 11-18-05	Work Hardening Program	<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. No reimbursement recommended.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

Texas Labor Code 413.011(a-d) and 413.03128
28 Texas Administrative Code Sec, 133.308, 134.1

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 of the IRO fee and is not entitled to reimbursement for the services involved in this dispute.

Findings and Decision by:

Medical Dispute Officer

9-08-06

Authorized Signature

Typed Name

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.

July 28, 2006

TX DEPT OF INS DIV OF WC
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M5-06-1839-01
CLIENT TRACKING NUMBER: M5-06-1839-01/5278

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIOA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA 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. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing 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 decision before referral to the IRO.

Records Received:

Records Received from the State:

- Notification of IRO Assignment, 7/14/06 - 2 pages
- Medical Dispute Resolution Request/Response, 7/14/06 - 5 pages
- Table of Disputed Services, 9/6/05-11/18/05 - 5 pages
- EOBs, 9/6/05-11/18/05 - 8 pages

Records Received from the Respondent:

- C-Spine AP and Lateral, - 1 page
- Notes from Family Healthcare Associates, - 1 page
- Biomechanical Interpretation, 6/23/05 - 1 page
- Initial Examination from Arkansas Pioneer Chiropractic, 6/23/05 - 3 pages
- Notes from Mid Cities Neuro Lab Inc, 6/24/05 - 20 pages
- SOAP Notes from Arkansas Pioneer Chiropractic, 6/27/05-6/28/05 - 4 pages
- Clinical Data, undated - 1 page
- Daily Notes from North Texas Pain Recovery Center, 7/13/05 - 1 page
- SOAP Notes from Arkansas Pioneer Chiropractic, 7/13/05-7/24/05 - 3 pages
- Daily Notes from North Texas Pain Recovery Center, 7/14/05-8/23/05 - 10 pages
- Physical Therapy Daily Notes, 8/24/05 - 1 page
- Physical Therapy Reevaluation, 8/24/05 - 2 pages
- Chart Notes, 8/10/05-9/15/05 - 1 page
- Functional Capacity Evaluation, 9/2/05 - 4 pages

- Weekly Progress Report from North Texas Pain Recovery Center, 9/12/05– 2 pages
- Hypnosis Group Notes from North Texas Pain Recovery Center, 9/6/05–9/8/05 – 1 page
- Biofeedback Group Notes from North Texas Pain Recovery Center, 9/7/05–9/9/05 – 1 page
- Letter of Medical Necessity for Electrical Stimulation Unit from North Texas Pain Recovery Center, 9/5/05 – 1 page
- Weekly Rehabilitation Note from North Texas Pain Recovery Center, 9/6/05–9/23/05 – 2 pages
- Weekly Progress Report from North Texas Pain Recovery Center, 9/19/05– 2 pages
- Hypnosis Group Notes from North Texas Pain Recovery Center, 9/13/05–9/15/05 – 1 page
- Counselling Session Notes from North Texas Pain Recovery Center, 9/15/05 – 1 page
- Biofeedback Group Notes from North Texas Pain Recovery Center, 9/12/05–9/16/05 – 1 page
- Weekly Rehabilitation Note from North Texas Pain Recovery Center, 9/12/05–9/16/05 – 1 page
- Letter to Liberty Mutual from Dr. Whitehead, 9/26/05 – 3 pages
- Weekly Rehabilitation Note from North Texas Pain Recovery Center, 9/26/05–9/30/05 – 1 page
- Weekly Progress Report from North Texas Pain Recovery Center, 9/26/05 – 2 pages
- Hypnosis Group Notes from North Texas Pain Recovery Center, 9/21/05–9/22/05 – 1 page
- Biofeedback Group Notes from North Texas Pain Recovery Center, 9/19/05–9/23/05 – 1 page
- Weekly Progress Report from North Texas Pain Recovery Center, 10/4/05 – 2 pages
- Biofeedback Group Notes from North Texas Pain Recovery Center, 9/26/05–9/30/05 – 1 page
- Hypnosis Group Notes from North Texas Pain Recovery Center, 9/29/05 – 1 page
- Weekly Rehabilitation Note from North Texas Pain Recovery Center, 10/3/05–10/7/05 – 1 page
- Pain Management Work Hardening from North Texas Pain Recovery Center, 10/7/05 – 2 pages
- Weekly Progress Report from North Texas Pain Recovery Center, 10/11/05 – 2 pages
- Biofeedback Group Notes from North Texas Pain Recovery Center, 10/3/05–10/7/05 – 1 page
- Hypnosis Group Notes from North Texas Pain Recovery Center, 10/4/05–10/6/05 – 1 page
- Counselling Session Notes from North Texas Pain Recovery Center, 10/4/05 – 1 page
- SOAP Notes from Arkansas Pioneer Chiropractic, 6/27/05–6/28/05 – 3 pages
- Weekly Rehabilitation Note from North Texas Pain Recovery Center, 10/10/05–10/14/05 – 1 page
- Functional Capacity Evaluation, 10/18/05 – 4 pages
- Biofeedback Group Notes from North Texas Pain Recovery Center, 10/10/05–10/14/05 – 1 page
- Hypnosis Group Notes from North Texas Pain Recovery Center, 10/11/05–10/13/05 – 1 page
- Weekly Progress Report from North Texas Pain Recovery Center, 10/17/05 – 2 pages
- Clinical Data, 9/23/05–10/28/05 – 1 page
- Prescription, 11/2/05 – 1 page
- Clinical Data, 11/28/05 – 1 page
- Functional Capacity Evaluation, 12/2/05 – 3 pages
- Notes from Orthopedic Center, 3/28/06–4/11/06 – 5 pages
- Texas Workers' Compensation Work Status Reports, 6/23/05–7/12/05 – 3 pages
- Supplemental Report of Injury, 7/11/05 – 1 page
- Texas Workers' Compensation Work Status Reports, 7/12/05 – 1 page
- Supplemental Report of Injury, 7/19/05 – 1 page
- Texas Workers' Compensation Work Status Reports, 8/2/05–3/29/06 – 6 pages

Records Received from the Requestor:

- Letter to MRIOA from North Texas Pain Recovery Center, 7/19/06 – 8 pages
- Referral for Treatment at North Texas Pain Recovery Center, undated – 1 page
- Information on Program, undated – 2 pages
- Behavioral Health Assessment from North Texas Pain Recovery Center, 9/1/05 – 3 pages
- Staffing Summary Report, 9/20/05–10/13/05 – 7 pages
- Exercise Sheet from North Texas Pain Recovery Center, 9/5/05–12/9/05 – 19 pages
- Counselling Session Notes from North Texas Pain Recovery Center, 9/15/05 – 1 page
- Hypnosis Group Notes from North Texas Pain Recovery Center, 9/6/05–10/4/05 – 5 pages
- Counselling Session Notes from North Texas Pain Recovery Center, 10/4/05 – 1 page
- Pain Management Work Hardening from North Texas Pain Recovery Center, 10/7/05 – 2 pages
- Texas Workers' Compensation Work Status Reports, undated – 2 pages

- Weekly Rehabilitation Note from North Texas Pain Recovery Center, 11/14/05–11/18/05 – 1 page
- Work Hardening Reevaluation, 11/14/05 – 1 page
- Weekly Rehabilitation Note from North Texas Pain Recovery Center, 11/21/05–12/2/05 – 2 page
- Biofeedback Group Notes from North Texas Pain Recovery Center, 11/14/05–12/2/05 – 2 page
- Hypnosis Group Notes from North Texas Pain Recovery Center, 11/22/05–12/1/05 – 2 pages
- Weekly Progress Report from North Texas Pain Recovery Center, 11/21/05 – 2 pages
- Arthritis Form, 11/23/05 – 1 page
- Weekly Progress Report from North Texas Pain Recovery Center, 11/28/05 – 2 pages
- Process Group Notes from North Texas Pain Recovery Center, 11/14/05–11/18/05 – 1 page
- Weekly Progress Report from North Texas Pain Recovery Center, 12/5/05 – 2 pages
- Process Group Notes from North Texas Pain Recovery Center, 11/21/05–12/2/05 – 3 pages

Summary of Treatment/Case History:

The patient is a 23-year-old female with a work related injury on _____. The patient had back pain when lifting a 50 pound pallet. She saw a chiropractor and the pain worsened. She was seen on 6/28/05 and was noted to have mid back tenderness; her x-ray was negative and she was treated with medication. The patient then started therapy at North Texas Pain Recovery Center. The physician notes indicate the patient was improving with therapy and working limited duty. The therapy notes indicate improvement with the patient doing exercises, both normal and aquatic. The 8/10/05 note indicates the patient was doing box push/pull with 20 of 55 pounds and lifting 12" to waist with 4 of 20 pounds. The note also indicates good endurance, tolerance to task, and progress with strength and stabilization. However, notes also indicate waxing and waning of pain complaints. On 8/18/05, she was lifting was 25 pounds. On the physical therapy (PT) reevaluation of 8/24/05, it was noted that the patient had normal strength in her muscle groups, but is only able to lift 25 pounds while the job requires 70 pounds occasional and 40–45 pounds frequently. A work hardening program of 6–8 weeks of 4 hours per day was recommended. This was started and the 9/12/05 report indicates improvement of lifting to 20 pounds and push/pull to 10 pounds. Back range had decreased over the first 5 days of the program. By 9/20/05, lifting had increased to 22.5 pounds and push/pull to 15 pounds. It appears that the program included self-hypnosis, biofeedback, transcutaneous electrical nerve stimulation (TENS), strengthening, cardiovascular exercises, and counseling. By 9/27/05, lifting was up to 25 pounds (note: level noted on 8/18/05 prior to beginning of program) and push/pull of 25 pounds (was 55 pounds on 8/18/05). By 10/3/05, lifting was 30 pounds and push/pull was 45 pounds. On 10/17/05, lifting was 35 pounds and push/pull was 50 pounds. Back range of motion, other than flexion, was less than at the onset of the program. The program ended on 10/18/05. It appears that the patient attempted to return to work at that point, but could not meet requirements. She was taken off all work and then restarted work hardening on 11/14/05. Between 11/21/05 and 11/28/05, the patient doubled lifting capacity from 35 to 70 pounds and push/pull from 50 to 70 pounds. The numbers were essentially unchanged the following week on 12/5/05. The patient was then released to a full duty level of work. The patient apparently reinjured her back at work and was seen by an orthopedist on 3/28/06. When seen in recheck, he recommended work hardening at Pride.

Questions for Review:

Services for review: Work hardening (#97545-WH-CA) and work hardening each additional hour (#97546-WH-CA). Medical necessity. DOS 9/6/05 through 11/18/05

Explanation of Findings:

Services for review: Work hardening (#97545-WH-CA) and work hardening each additional hour (#97546-WH-CA). Medical necessity. DOS 9/6/05 through 11/18/05

This is a young healthy patient who had a lumbar sprain. The physician and therapy notes indicate progressive improvement with the therapy program. As noted above, by 8/18/05, the patient was lifting 25 pounds and push/pull of 55 pounds. The manual muscle exam was normal. The patient was working throughout this time with restrictions. The patient did have ongoing pain that varied in intensity. The 8/18/05 note indicates a decrease in pain, and that the patient was lifting bags at work, including slightly heavier things, without discomfort. The note indicates the patient is doing well in all areas. The 8/10/05

note indicates back flexion is full, but guarded at the end of the range. She had full extension and side bending. In summary, through 8/23/05, the patient is a young healthy person with a back sprain. The injury was not considered sufficiently significant to warrant diagnostic studies such as a CT, MRI, or electrodiagnostic studies. The patient was working throughout with restrictions. The therapy notes indicate progressive improvement in all areas with normal muscle strength and almost full range. The patient was doing the exercises properly and progressing. There was still discomfort of varying intensity. The medical necessity for a work hardening program in this setting is highly questionable. The patient did not need the program to return to work. There was no indication of the patient being removed from her job. She was improving. The patient still required pain management and time to continue to progress and improve. There is no indication from these notes to suggest otherwise.

Furthermore, even if a program would be considered appropriate because of the ongoing limitations and discomfort, there were a number of significant red flags. The patient had a significant drop in work capacity (lifting, push/pull, etc) as noted above between 8/23/05 and the program functional evaluation of 9/2/05. There was also a significant drop in range. No explanation for these major changes was given. The patient did not progress to any significant degree. There was a minor improvement in physical capacity over a few weeks, but a further decrease in range. The values on 9/27/05 were still not back to the 8/18/05 levels. Given these decreases in function and lack of significant progress, the program should have been terminated after 1–2 weeks. While the literature indicates that functional restoration programs do improve return to work with less sick days, this patient was working prior to the program and did not improve significantly with it. The literature does not support open-ended programs that continue for months with minimal progress being demonstrated. While the letter from the provider indicates major improvement from the beginning of the program through the conclusion of the second program, most of the improvement was in the last week with a sudden 50% increase in lifting and improved range from 11/21/05 to 11/28/05.

It should also be noted that the patient has gone through 2 work hardening programs of over 2 months and then 2 weeks at 8 hours a day. Nevertheless, the patient reinjured her back in 3/06 and the orthopedist is suggesting another work hardening program.

Therefore, based on the above, while an argument might be made that a work hardening trial would be appropriate given the findings and course of events noted above, it should have been stopped after 1–2 weeks. Therefore, there is agreement with the prior denial and medical necessity for the program from 9/6/05–11/18/05 is not supported by the documentation.

Conclusion/Decision to Not Certify:

Medical necessity for the program from 9/6/05–11/18/05 is not supported by the documentation.

Applicable Clinical or Scientific Criteria or Guidelines Applied in Arriving at Decision:

1. Clinical review
2. Medline search

References Used in Support of Decision:

1. Work conditioning, work hardening and functional restoration for workers with back and neck pain. Cochrane Database Syst Rev. 2003;(1): CD001822
2. Multidisciplinary bio-psycho-social rehabilitation for chronic low back pain. Cochrane Database Syst Rev. 2002;(1): CD000963
3. Meta-analysis: exercise therapy for nonspecific low back pain. Ann Intern Med. 2005 May 3; 142(9): 765–75
4. Functional restoration versus outpatient physical training in chronic low back pain: a randomized comparative study. Spine. 2000 Oct 1; 25(19): 2494–500
5. Multidisciplinary group rehabilitation versus individual physiotherapy for chronic nonspecific low back pain: a randomized trial. Spine. 2006 Feb 15; 31(4): 371–6

This reviewer is Board certified in Physical Medicine & Rehabilitation (1979). The physician providing this review is a Diplomate, American Academy of Physical Medicine and Rehabilitation; and Diplomate, American Board of Electrodiagnostic Medicine. This reviewer is a member of the American Spinal Injury Association, American Academy of Physical Medicine and Rehabilitation, State Academy of Physical Medicine and Rehabilitation, and State Medical Society. This reviewer has held various academic positions, is currently an Adjunct Associate Professor, and has authored numerous publications. The reviewer has additional training in Acupuncture. This reviewer is licensed to practice in four states and has been in practice since 1978.

MRloA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, and the DWC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

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The written opinions provided by MRloA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRloA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRloA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

1244965.1

Case Analyst: Jamie C ext 583