



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	
Requestor's Name and Address: Rehab 2112 P.O. Box 671342 Dallas, TX 75267-1342	MDR Tracking No.: M5-06-1979-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Dallas ISD Rep Box # 42	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.: 2005035155

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Requestor's Position Summary: Per the Table of Disputed Services: "Work hardening is Medically Necessary."

Principle Documentation:

1. DWC 60/Table of Disputed Services
2. CMS 1500's
3. Explanation of Benefits

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Respondent's Position Summary: The Respondent did not submit a Position Summary to MDR.

Principle Documentation:

1. The Respondent did not submit a response to MDR

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
08/17/05 – 09/01/05	97545-WH-CA, 97546-WH-CA, & 97750-FC-GP	<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, and 134.1
Texas Labor Code, Sec. 413.031 and 413.011 (a-d)

PART VII: DIVISION FINDINGS AND 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:

10/19/06

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.

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

Date:	10/11/2006 Amended 10/13/2006
Injured Employee:	
MDR #:	M5-06-1979-01
DWC #:	
MCMC Certification #:	TDI IRO-5294

REQUESTED SERVICES:

Please review item(s) in dispute: Work hardening program and 97750 (FC-GP) from 08/17/2005 to 09/01/2005.

DECISION: Upheld

IRO MCMCllc (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 10/11/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity and/or appropriateness of the work hardening program and 97750 (FC-GP) from 08/17/2005 to 09/01/2005 is not established upon review of the documentation.

CLINICAL HISTORY:

Records indicate that the captioned individual, a 41-year-old female, reportedly sustained injuries as a result of an occupational incident that allegedly occurred on 05/___/2005. The history reveals that she moved backwards to avoid a falling table or lifted the table and noticed low back pain. The injured individual presented to the office of the attending physician (AP) on 05/06/2005 complaining of low back pain of a 7/10 severity. Ranges of motion were moderately reduced and orthopedic testing indicated biomechanical low back sprain/strain injuries. MRI examination dated 05/09/2005 revealed disc desiccation as well as an annular tear and a disc protrusion at L5 with no obvious neuro-compressive effect. A course of passive care followed by a course of active care was initiated. A Functional Capacity Exam (FCE) dated 08/08/2005 showed that the injured individual was performing at a light-medium Physical Demand Level (PDL) and the required PDL was listed as medium. Ranges of motion were more or less normal and the injured individual was able to lift 40 pounds and the required lifting capacity was listed as 50 pounds. A course of work hardening ensued followed by a FCE on 09/01/2005 to determine return to work status. It was determined at that time that the injured individual was able to resume regular duties.

REFERENCES:

References utilized in this review may include but are not limited to the ACEOM Guidelines, Official Disability Guidelines, Health Care Guidelines by Milliman and Robertson Volume 7, North American Spine Society Guidelines, Texas Medical Fee Guidelines, and Procedural Utilization Guidelines.

RATIONALE:

The above captioned individual apparently sustained a minimal low back injury with, at best, equivocal complicating factors. There were no indications that there were any significant functional or neurological deficits associated with the injuries. At the time of the initial FCE dated 08/08/2005, there were minimal range of motion deficits and endurance issues. More importantly, the injured individual demonstrated the ability to safely lift 40 pounds of the required 50 pounds. The documentation makes references to the fact that the injured individual had previously made substantial progress during the course of rehab attended prior to the initiation of work hardening. It is unclear why ongoing active rehab would not have been equally effective in restoration of the minimally remaining functional deficits. The ACOEM guidelines as well as the Official Disability Guidelines both in general terms state that the degree of functional deficits/expected restoration should match favorably to the choice of rehabilitation programs. In other words, the tertiary, multi-disciplinary type care received in work hardening was a poor match for the minimal lingering deficits that were demonstrated. It should be noted that it was revealed that the injured individual exhibited psychosocial overlay, however there are other, less intensive choices for addressing such issues. These less intensive venues should have been considered. Additionally, it is apparent that the injured individual was poorly compliant with care both in the work hardening program as well as prior to the work hardening setting. Lastly and possibly most importantly, a work hardening program should lead to a safe return to work. While it should be noted that there is no detailed description of the injured individual's work status, it is obvious that she was working full time during, and possibly prior to the initiation of the work hardening program. In fact, it is apparent from the content of the documentation that it was suggested to the injured individual that she reduce her work load to half days while attending the work hardening program. This reviewer knows of no guidelines that would support that an injured individual should discontinue or reduce a work load to initiate a work hardening program especially in this case where it was demonstrated that the injured individual was able to safely work at a level of at least 80% of the maximum required physical demand level. An actual return to work should be a preferred choice to a return to work program.

Consistent with the above discussion and consistent with the guidelines referenced above, the medical necessity for the work hardening program captioned above is not established.

DATES RECORDS RECEIVED:

Medical records received 09/18/2006 and 09/20/2006.

RECORDS REVIEWED

Notification of IRO Assignment dated 08/31/06

MR-117 dated 09/01/06

DWC-60

DWC: EES-14 dated 07/11/05

DWC-41: Worker's or Beneficiary's Notice of Injury or Occupational Disease and Claim dated 05/06/05

DWC-22: Required Medical Examination Notice or Request for Order dated 08/31/05

DWC-73: Work Status Report with evaluation date of 05/07/05

DWC: Employee's Request to Change Treating Doctors dated 05/06/05

MCMC: IRO Medical Dispute Resolution M5 Retrospective Medical Necessity dated 09/18/06

MCMC: IRO Acknowledgment and Invoice Notification Letter dated 09/01/06

MCMC: Statement dated 09/05/06

Rehab 2112 LLC: Check dated 09/08/06

Case Management Summary: Primary Physical Limitations notes (handwritten) dated 09/06/05, 08/30/05, 08/23/05, 08/18/05

Visual Pain Rating Scale & Pain Diagram dated 09/01/05

Louis Saucedo, D.C.: Medical Resolution Request dated 06/26/06
Geri-Lynn Souder, D.C.: Letter of Medical Necessity dated 12/31/05
Focus: Interim FCEs dated 09/01/05, 08/08/05
Rehab 2112: Impairment Rating/FCE-PPE Billing Forms dated 09/01/05, 08/08/05
Rehab 2112: Rehabilitation Services notes dated 08/31/05, 08/16/05, 07/28/05, 06/28/05, 05/31/05
Rehab 2112: Form notes regarding missed appointments dated 08/31/05, 08/29/05, 08/26/05, 08/23/05, 07/19/05, 06/30/05
Kenneth Wise, Psy.D: Psychology Group Notes dated 08/30/05, 08/23/05, 08/18/05
Health Insurance Claim Forms dated 08/19/05 through 09/07/05
Lloyd D. Payne, D.C.: Report dated 08/18/05
Visit Log Reports dated 08/18/05, 08/19/05, 08/24/05, 08/25/05, 08/30/05
Explanation of Benefits for Dates of Service 08/17/05, 08/18/05, 08/19/05, 08/23/05, 08/24/05, 08/25/05, 08/30/05, 09/01/05
Article entitled, "REHAB 2112 Program Policies" with signed acknowledgment dated 08/17/05
Article entitled, "Patient's Complaints for Investigation and Resolution of any Allegations" with signed acknowledgment dated 08/17/05
Patient Orientation and Education Checklist dated 08/17/05
Rehab 2112 WC/WH Program Daily Notes (handwritten) dated 08/17/05 through 08/31/05
Stress and Lifestyle-Change Survey completed by claimant 08/08/05
Kenneth F. Wise, Psy.D: Form letter dated 08/08/05
Rehab 2112: Letter dated 06/28/05 from Paula Horn, MPT
Rehab 2112: Comprehensive Patient Examination – Initial dated 06/28/05 with attached Recommended Treatment Plan
Active Rehab Exercise/FEE Slip sheets for the period 06/28 through 08/28
Informed Consents signed 05/06/05, 06/28/05, 08/08/05, 09/01/05
Authorization and Assignment of Cause of Action dated 06/28/05
Rehab 2112 Fee Schedule dated 06/28/05
Joint Integrity Test dated 06/28/05
Argus: Letter dated 06/06/05 from Jeanna Henderson, RME Coordinator
Accident and Injury Chiropractic: Attending Doctor's Recommendations dated 06/06/05
Patient information sheet dated 06/02/05
Rehab 2112: Request of Records dated 06/02/05
Rehab 2112: Notice of TWCC Compensability dated 06/02/05
Handwritten Notes dated 06/02/05 through 08/31/05
Correction Sheet dated 05/13/05
Patient Compliance Worksheet with call dates of 05/10/05, 05/11/05
Daily Progress Notes dated 05/09/05 through 06/23/05
Accident & Injury Chiropractic: Initial Report for office visit 05/06/05 from Mark Rayshell, D.C.
Open Air MRI: MRI lumbar spine dated 05/09/05, lumbar spine radiographs, thoracic spine radiographs dated 05/06/05
Common ICD-9 Codes dated 05/06/05
Treatment Plan dated 05/06/05
Referral Forms dated 05/06/05 (three) and two incomplete forms
Extremity Examination dated 05/06/05
Past Medical History sheet (date not legible)
Personal History dated 05/06/05
Consultation (date not legible)
Undated Verification of Non-Pregnancy
X-Ray Examination Report dated 05/06/05
Lone Star Radiology: Authorization form signed 05/06/05
Accident & Injury Chiropractic: Fee Schedule dated 05/06/05
Accident & Injury Pain Centers: Authorization and Assignment of Benefits dated 05/06/05
Telephone Call – Log Sheet dated 05/06/05
Accident & Injury Pain Centers: Authorization for the Use of Disclosure of Protected Health Care Information dated 05/06/05
Musculoskeletal Examination sheet dated 05/06/05 with the first heading being "Neurological Examination"
Patient Demographic Tracker Sheet dated 05/06/05
Diagnosis & Treatment Sheet dated 05/06/05
Insurance Information sheet dated 05/06/05
Accident & Injury Chiropractic: Notice of TWCC Compensability dated 05/05/05
Rehab 2112 Daily Therapy Notes (handwritten) dated 01/05/05 through 07/28/05
Undated article entitled, "REHAB 2112 Patients Rights and Responsibilities" with signed acknowledgment
Texas Department of Public Safe Driver License for claimant
Accident & Injury Chiropractic: Article entitled, "Outline of Procedures for the New Patient"
Accident & Injury Chiropractic: Instruction Sheet for the Patient with a Minor Closed Head Injury
Undated Abbreviation List
Article entitled, "Patient's Complaints for Investigation and Resolution of any Allegations"
Mortgage and Rent Assistance sheets
List of telephone numbers starting with Texas Workforce Commission

Free Low Cost Medical Transportation telephone numbers
Rehab 2112: Undated Work Program Participant Intake Sheet with attached Current Medical Problem sheet, Medical History sheet, PARQ sheet, Work/Employment Information sheet
Undated Summary of Maximal Physical Job Demands
Undated sheet listing various exercise positions
Undated prescription note from Richard Berger, M.D.
Undated form note entitled, "Lets Get Work Simin"
Undated Acknowledgment of Receipt of Notice
Undated form letter entitled, "Do you need transportation to and from our facility"
Undated form letter entitled, "Rehab 2112 Work Program"

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, 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
13th day of October 2006.**

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____

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