



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:

North Texas Pain Recovery Center
6702 W. Poly Webb Rd.
Arlington, TX 76016

MDR Tracking No.:

M5-06-2071-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

Benchmark Insurance Company, Box 17

Date of Injury:

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 – see peer review."

Principle Documentation:

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

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)
1-16-06 – 2-17-06	97545-WH-CA, 97546-WH-CA	<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 413.031
28 Texas Administrative Code Sec, 133.308 and 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

10-04-06

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.

September 13, 2006

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M5-06-2071-01

CLIENT TRACKING NUMBER: M5-06-2071-01

Medical Review Institute of America (MRloA) 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 MRloA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRloA 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:

FROM THE STATE:

Notification of IRO assignment 8/25/06 - 1 page

Texas Department of Insurance Division of Workers Compensation form 8/25/06 - 1 page

Medical dispute resolution request/response form 8/4/06 - 1 page

Provider form - 1 page

Medical dispute resolution request/response form 8/4/06 - 1 page

Provider form - 1 page

Table of disputed services - 4 pages

Medicor review analysis 2/28/06 - 5 pages

Medicor review analysis 3/13/06 - 5 pages

FROM THE REQUESTOR:

Texas Department of Insurance Division of Workers Compensation form 8/10/06 - 1 page

Peer review 2/16/06 - 8 pages

Letter from North Texas Pain Recovery Center 9/8/06 - 4 pages

Table of attachments coversheet - 1 page

Plan language - 3 pages

Functional capacity evaluation 1/16/06 - 5 pages

Vocational survey 1/16/06 - 1 page

Behavioral health assessment 2/1/06 - 3 pages

Weekly progress report/discharge summary 2/17/06 - 2 pages

Weekly progress report 2/6/06 - 2/10/06 - 2 pages

Weekly progress report 1/16/06 - 1/20/06 - 2 pages

Weekly progress report 1/23/06 - 1/27/06 - 2 pages

Weekly progress report 1/30/06 - 2/3/06 - 2 pages

Biofeedback training 1/16/06 - 1/27/06 - 2 pages

Biofeedback training 1/30/06 – 2/10/06 – 2 pages
Biofeedback training 2/13/06 – 2/17/06 – 1 page
Self hypnosis training 1/24/06 – 1/26/06 – 2 pages
Self hypnosis training 2/7/06 – 2/16/06 – 2 pages
SOAP notes 1/24/06 – 1 page
SOAP notes 2/1/06 – 1 page
Treatment options for spine pathology 1/18/06 – 1 page
Classification of pain 1/25/06 – 1 page
Poly pharmacy group discussion 2/1/06 – 1 page
Nutrition 2/8/06 – 1 page
Arthritis 2/15/06 – 1 page
Chart notes 1/16/06 – 1/20/06 – 1 page
Chart notes 1/23/06 – 1/27/06 – 1 page
Chart notes 1/30/06 – 2/3/06 – 1 page
Chart notes 2/6/06 – 2/10/06 – 1 page
Goal setting 1/20/06 – 2/10/06 – 2 pages
Goal setting 2/17/06 – 2/3/06 – 2 pages
Work hardening exercise sheets – 14 pages
Self hypnosis training 1/17/06 – 1/19/06 – 1 page
Treatment plan – 2 pages
Report of medical evaluation 10/25/05 – 1 page
Report of medical evaluation 10/25/05 – 2 pages
Supplemental information / review of medical history / physical examination coversheet – 1 page
Review of medical history and physical exam 10/25/05 – 5 pages
Operative report 9/29/05 – 3 pages
Operative report 7/14/05 – 3 pages
Follow up examination notes 10/14/05 – 2 pages
Prescription for evaluation and treatment 10/14/05 – 1 page
UniMed Direct LLC report 6/9/05 – 2 pages
UniMed Direct LLC report 9/1/05 – 1 page
Required medical examination 11/9/05 – 3 pages
Pain Management/work hardening notes 2/1/06 – 3 pages

Summary of Treatment/Case History:

The patient is a 29 year-old male who underwent multiple surgeries and physical medicine treatments after the amputation of the DIP of both index fingers when he got his fingers caught in a press in ____.

Questions for Review:

Dates of service 1/16/06 through 2/17/06:

1. Services for review: Work hardening #97545-WH-CA and work hardening each additional hour #97546-WH-CA.

Explanation of Findings:

In the preamble of the Texas Workers Compensation Commission's amendments to rule 134.600, the Commission states as follows: "Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers' compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop." In its report to the legislature, the Research and Oversight Council on Texas Workers' Compensation explained its higher costs compared to other health care delivery systems by stating, "Additional differences between Texas workers' compensation and Texas group health systems also widen the cost gap. These differences include...in the case of workers' compensation, the inclusion of costly and questionable medical services (e.g., work hardening/conditioning.)"

In this case, the provider's work hardening program is just the type of questionable services of which the TWCC and the legislature spoke when expressing concern in regard to medically unnecessary treatments that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs.

The records fail to substantiate that the disputed services fulfilled statutory requirements for medical necessity since the patient obtained no relief, promotion of recovery was not accomplished and there was no enhancement of the employee's ability to return to or retain employment. Specifically, the claimant's pain rating was 6/10 on 01/16/06 at the initiation of the disputed treatment and 7/10 on 02/17/06 at the termination of the disputed treatment. Additionally, there was no significant range of motion improvements from the 01/16/06 FCE and the examination performed on 02/10/06; no improvement in functional lifting from the 01/16/06 FCE and the examination performed on 02/17/06; and no ability to return to work according to the 02/17/06 "Treatment Team" report.

Current medical literature states, "...There is no strong evidence for the effectiveness of supervised training as compared to home exercises. There is also no strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care." The literature further states "...that there appears to be little scientific evidence for the effectiveness of multidisciplinary biopsychosocial rehabilitation compared with other rehabilitation facilities..." And a systematic review of the literature for a multidisciplinary approach to chronic pain found only 2 controlled trials of approximately 100 patients with no difference found at 12-month and 24-month follow-up when multidisciplinary team approach was compared with traditional care. Based on those studies, the claimant's lack of response was therefore certainly foreseeable.

And finally, it is important to mention that health care practitioners in the provider's own facility (Kenneth N. Walker, PhD and David B. Graybill, DO) did not support the disputed treatment. In separate reports dated 02/01/06, the provider's colleagues both opined that the claimant was in need of a chronic pain management program --- not the work hardening program that was being performed at the time.

Conclusion/Decision to Not Certify:

1. Services for review: Work hardening #97545-WH-CA and work hardening each additional hour #97546-WH-CA.

The work hardening and work hardening each additional hour are not certified.

References Used in Support of Decision:

26 Tex. Reg. 9874 (2001)

"Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers' Compensation System," Research and Oversight Council on Workers' Compensation, Report to the 77th Legislature, page 6.

Texas Labor Code 408.021

Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the Cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.

Karjalainen K, Malmivaara A, van Tulder M, Roine R, Jauhiainen M, Hurri H, Koes B. Multidisciplinary biopsychosocial rehabilitation for neck and shoulder pain among working age adults. Cochrane Database Syst Rev. 2003;(2):CD002194.

Karjalainen K, et al. Multidisciplinary rehabilitation for fibromyalgia and musculoskeletal pain in working age adults. Cochrane Database of Systematic Reviews 2000;2.

This review was provided by a chiropractor licensed in Texas, certified by the National Board of Chiropractic Examiners, and who is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has written numerous publications and given several presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty-five years.

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.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRloA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

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.

1255063.1

Case Analyst: Cherstin B ext 593