



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 and Fee Dispute

#### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> ( X ) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: North Texas Pain Recovery Center 6702 W. Poly Webb Road Arlington, TX 76016	MDR Tracking No.: M5-06-2157-01 (Current MDR#) M4-04-4727-01 (Former MDR#)
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: American Employers Insurance Company Carrier Rep Box # 29	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

#### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Requestor's Position Summary: Per the Table of Disputed Services, "Normally paid at \$64.00 per hour."

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: No Position Summary submitted by the Respondent to MDR

Principle Documentation:

1. Response to DWC-60

#### PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
10/06/03 – 11/14/03	97545 WH-CA and 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.

**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:

10-27-06

\_\_\_\_\_  
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.**

October 19, 2006

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

CLAIMANT: \_\_\_\_

EMPLOYEE: \_\_\_\_

POLICY: M5-06-2157-01

CLIENT TRACKING NUMBER: M5-06-2157-01/5278

---

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, 9/25/06

Notice of receipt of request for Medical Dispute Resolution, 9/25/06

Medical Dispute Resolution Request/Response form

List of providers

Medical Dispute Resolution Request/Response form, 12/30/03

List of providers

Table of Disputed Services

Explanation of Review, Corvel

Records Received from the Respondent:

Letter from Michael Walker, North Texas Pain Recovery Center, 10/2/06

Plan language

Table of Attachments

Functional Capacity Evaluation Summary, 10/2/03

Order for Work Hardening, 10/2/03

Psychological Screening Evaluation, 6/9/03

Medical Record Review, 10/1/03

Patient notes, David Graybill, DO, 10/2/03

Letter from Mary Jo Fitzgerald, 10/24/03

Note from David Graybill, DO regarding arthritis, 11/3/03

Patient notes, North Texas Pain Recovery Center, 10/6/03 - 12/3/03

Accreditation certificate

North Texas Pain Recovery Center daily sheets

Weekly Conference Notes, 11/3/03  
Texas Workers' Compensation Commission, Advisory 2003-12  
Trinity Orthopedics, Larry Kjeldgaard, DOPatient Information  
MRI lumbar spine report, 1/6/03  
Article regarding study by Burchlel and colleagues  
Follow up exams, Larry Kjeldgaard, DO, 5/5/03, 5/21/03  
MRI lumbar spine report, 5/19/03  
Letter of Referral and Medical Necessity, 5/21/03

**Summary of Treatment/Case History:**

The claimant underwent physical medicine treatments, including work hardening, after sustaining injury at work on \_\_\_\_.

**Questions for Review:**

1. Was the work hardening program (97545-WH and 97546-WH) from 10/06/03 through 11/14/06 medically necessary to treat this patient's injury?

**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." (1) 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.)" (2) 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

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." (3) The literature further states "...that there appears to be little scientific evidence for the effectiveness of multidisciplinary biopsychosocial rehabilitation compared with other rehabilitation facilities..." (4) 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. (5) Based on those studies, the work hardening program is not supported.

No treatment records were available for review during the time period immediately preceding the treatment in question. Therefore, it is unknown what kinds of therapies and/or treatments had been attempted, what was beneficial and what was not, and were the disputed treatments different or more of the same? Since no medical treatment records were furnished that would answer those questions, there is less than sufficient documentation to support the medical necessity of the disputed treatment.

And finally, the records fail to substantiate that the aforementioned services fulfilled the statutory requirements (6) for medical necessity. Specifically, the patient's pain was rated at 7/10 on 10/02/03 but no further ratings were ever reported; the patient was only able to work in a sedentary work environment at the conclusion of the disputed treatment; and the patient's lumbar flexion range of motion remained significantly limited at the conclusion of care. The very small gains obtained during this time period would have likely also been achieved through performance of exercise home program.

**Conclusion/Decision to Not Certify:**

1. Was the work hardening program (97545-WH and 97546-WH) from 10/06/03 through 11/14/06 medically necessary to treat this patient's injury?

No. The work hardening program (#97545-WH and #97546-WH) from 10/06/03 through 11/14/06 was not medically necessary.

**References Used in Support of Decision:**

1. 26 Tex. Reg. 9874 (2001)
2. "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 77<sup>th</sup> Legislature, page 6.
3. 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.
4. 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.
5. Karjalainen K, et al. Multidisciplinary rehabilitation for fibromyalgia and musculoskeletal pain in working age adults. Cochrane Database of Systematic Reviews 2000;2.
6. Texas Labor Code 408.021

-----  
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.

1260717.1

Case Analyst: Valerie O ext 554