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.: M5-06-2183-01
Gabriel Gutierrez, D. C. P.O. Box 229 Katy, TX 77492-0229	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
FIDELITY & GUARANTY INSURANCE, Box 19	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary: "Treatment provided to…is reasonable and necessary per Texas Labor Code 408.21(a). Please refer to supportive documentation that documents the reasonableness and medical necessity for WH multidisciplinary rehabilitation..."

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

Principle Documentation:

1. DWC-60 Response/Table of Disputed Services/Position Summary

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)
2-20-06 – 3-31-06	97545-WH-CA, 97546-WH-CA, 97750-FC	☐ Yes ☒ No	$0.00
	Total Due		$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 Respondent also denied some services as "298-Disallowed; services do not appear related to work injury/diagnosis." However, the Division never received a PLN 11 from the Respondent. There is no documentation to support the Respondent's denial that these services are not related to the compensable injury.

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	11-20-06
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.

November 14, 2006

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

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M5-06-2183-01
CLIENT TRACKING NUMBER: M5-06-2183-01-5278

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 dated 10/31/06 from Texas Department of Insurance Division of Workers' Compensation, 18 pages
TWCC-62 Explanation of Benefits, total of $5,800.00, 11 pages

RECORDS FROM REQUESTOR:
Letter dated 10/12/06 to IRO Doctor from Human Resource Performance & Rehabilitation Institute, printed signature of Gabriel R. Gutierrez, D.C. 3 pages
Letter dated 9/20/06 addressed to Dr. Gabriel Gutierrez from Forster Health Associates, signed by Simon J. Forster, D.C. 4 pages
Letter dated 9/1/06 addressed to Gabriel R. Gutierrez from Texas Department of Insurance, Division of Workers' Compensation. 1 page
Letter dated 9/14/06 addressed to Texas Department of Insurance, Division of Workers' Compensation from John V. Fundis, Attorney At Law. 3 pages
Workers' Compensation Review dated 10/18/05 from Intracorp. 3 pages
Workers' Compensation Chiropractic Advisor Review dated 10/18/05 from Intracorp, unsigned by Stephen Tomko, D.C. 3 pages
Independent Medical Evaluation dated 1/5/06 from MES Solutions, signed by Charles F. Xeller, M.D. 4 pages
Analysis dated 21/19/06 from Cahive, Ogden & Latson, Attorneys At Law, PC, addressed to Roger Moczygemba, M.D., signed by S. Rhett Robinson. 2 pages
Fax Cover Sheet dated 5/3/06 from Huyman Resource Performance & Rehabilitation Institute. 3 pages
Fax Cover Sheet dated 5/8/06 from Sedgwick Claims Management Services, Inc. 2 pages
Fax Cover Sheet dated 5/25/06 from Human Resource Performance & Rehabilitation Institute. 1 page
Letter dated 5/25/06 addressed to SEDGWICK from Human Resource Performance & Rehabilitation Institute, printed signature of Gabriel R. Gutierrez, D.C. 6 pages
Fax Cover Sheet dated 5/25/06 from Human Resource Performance & Rehabilitation Institute. 1 page

Fax Confirmation dated 5/25/06. 1 page
Letter dated 5/25/06 addressed to TWCC from Human Resource Performance & Rehabilitation Institute, printed signature of Gabriel R. Guiterrez, D.C. 2 pages
Independent Medical Evaluation dated 1/5/06 from Charles F. Xeller, M.D. 4 pages
Information & Documents. 1 page
Patient Information dated 1/17/06. 1 page
Letter dated 1/19/06 addressed to Roger Moczygemba, D.C. from S. Rhett Robinson. 3 pages
Employee's Request to Change Treating Doctors dated 1/17/06. 2 pages
Letter dated 12/13/05 addressed to ___ ___ from IntraCorp. 1 page
Patient Information, undated, from Advanced Ortho Rehab 1 page
Assessment for Work Hardening Individual Treatment Plan & Functional Goals and Objectives dated 3/10/06 from Human Resource Performance & Rehabilitation Institute, printed signature of Gabriel R. Gutierrez, D.C. 10 pages
Form dated 2/6/06 from TBIH/HRPRI. 1 page
Informed Consent dated 2/20/06. 1 page
Functional Capacity Evaluation dated 2/20/06. 1 page
Report of Functional Capacity Evaluation dated 3/31/06 from Human RFesource Performance and Rehabilitation Institute. 18 pages
Report of Functional Capacity Evaluation dated 2/20/06 from Human RFesource Performance and Rehabilitation Institute. 21 pages
Medical Records. 4 pages
Initial Evaluation dated 1/17/06 from Total Rehab Institute, P.A., signed by Juan C. Galvan, D.C. 3 pages
Radiology Report dated 8/22/05 from East Side Imaging, Inc., unsigned by Barry P. Wood, M.D. 1 page
Radiology Report dated 8/22/05 from East Side Imaging, Inc., unsigned by Barry P. Wood. M.D. 1 page
1 page MRI Report dated 9/15/05 from East Side Imaging, Inc., unsigned by Edward Knudson, M.D.
1 page MRI Report dated 9/15/05 from East Side Imaging, Inc., unsigned by Edward Knudson, M.D.
1 page MRI Report dated 9/15/05 from East Side Imaging, Inc., signed by E. Knudson by B.W.
1 page MRI Report dated 9/15/05 from East Side Imaging, Inc., unsigned by Edward Knudson, M.D.
1 page MRI Report dated 9/15/05 from East Side Imaging, Inc., unsigned by Edward Knudson, M.D.
1 page MRI Report dated 9/15/05 from East Side Imaging, Inc., signed by E. Knudson by B.W.
1 page Initial Medical Report dated 8/12/05 from Advanced Orth Rehab, signed by Philip Estrada, D.C.
Report of Medical Evaluation dated 2/2/06. 1 page
Designated Doctor Evaluation dated 1/31/06 from Alamo City Medical Group, signed by Roger Moczygemba, M.D. 2 pages
EMG/NCV report dated 9/30/05 from Neuro-Muscular Consultants, P.A. and signed by Gregory N. Mrozinski, D.C. 6 pages
Work Hardening Assessment Psychosocial History dated 2/20/06, signed by Monie G. Smith, M.A., LMFT. 3 pages
Letter dated 3/17/06 addressed to SEDGWICK from Human Resource Performance & Rehabilitation Institute, printed signature of Gabrial R. Gutierrez, D.C. 2 pages
Weekly Work Hardening Report dated 3/17/06 from Human Resource Performance & Rehabilitation Institute. 20 pages
Weekly Work Hardening Report dated 3/27/06 from Human Resource Performance & Rehabilitation Institute. 22 pages
Work Hardening Group Therapy dated 3/24/06 from Human Resource Performance & Rehabilitation Institute, signed by Monie G. Smith, M.A., LMFT. 1 page
Weekly Team Conference Report dated 3/24/06 from Human Resource Performance and Rehabilitation Institute. 1 page
Letter dated 3/31/06 addressed to SEDGWICK from Human Resource Performance & Rehabilitation Institute, printed signature of Gabriel R. Gutierrez, D.C. 2 pages
Discharge and Weekly Work Hardening Report dated 3/31/06 from Human Resource Performance & Rehabilitation Institute, printed signature of Gabriel R. Gutierrez, D.C. 14 pages
Work Hardening Group Therapy dated 3/31/06 from Human Resource Performance & Rehabilitation Institute, signed by Monie G. Smith, M.A., LMFT. 1 page
Weekly team Conference Report dated 3/31/06. 1 page

Guideline(s) and References that support Multi-disciplinary Intervention such as Work Hardening. 3 pages
Letter dated 11/23/04 addressed to The Honorable Rick Perry, Governor of Texas from Texas Workers' Compensation Commission, signed by Mick Hachtman and Bob Shipe. 2 pages
Report on Legislative Recommendations From The Texas Workers' Compensation Commission to the 79th Texas Legislature December 2004. 5 pages
TWCC Fast Facts. 3 pages
Work Hardening and Work Conditioning Programs Exempted from Preauthorization and Concurrent Review, updated 4/12/06. 3 pages
Functional Capacity Evaluation description. 4 pages
Texas Workers' Compensation Commission Medical Fee Guidelines 1996. 10 pages
Guidelines for Programs for Injured Workers, APTA Workgroup on Programs for Injured Workers November 1994. 9 pages
Mayo Clinic website printout "Returning to work after an injury: Rehabilitation serfvices can help." January 19, 2004. 3 pages
ODG Treatment Workers' Comp 2005. 5 pages
Occupational Medicine Practice Guidelines, second edition, pages 77-117. 28 pages
Chapter 15 - Pain. 6 pages
Medical Dispute Resolution Request/Response, undated, from Gabriel Gutierrez, D.C. 5 pages
Texas Workers' Compensation Re-Evaluation forms dated 6/5/06. 53 pages
TWCC-62 Explanation of Benefits, 11 pages.
TWCC-62 Explanation of Benefits. 36 pages
Patient Information, undated, from Advanced Ortho Rehab. 1 page

RECORDS FROM INSURANCE COMPANY (RESPONDENT):
Letter dated 11/8/06 from Downs-Stanford, P.C. addressed to Medical Review Institute of America, signed by John V. Fundis. 3 pages
SOAP notes and Therapeutic Procedures for dates 8/12/05 to 12/21/05. 116 pages
Initial Medical Report dated 8/12/05 from Advanced Ortho Rehab, signed by Philip Estrada, D.C. 3 pages
Texas Workers' Compensation Work Status Report dated 8/12/05 signed by Philip Estrada, D.C. 1 page

Radiology Report dated 8/22/05 from East Side Imaging, Inc., unsigned by Barry P. Wood, M.D. 1 page
Radiology Report dated 8/22/05 from East Side Imaging, Inc., unsigned by Barry P. Wood, M.D. 1 page
Subsequent Medical Report dated 9/6/05 from Advanced Ortho Rehab, unsigned by Philip Estrada, D.C. 2 pages
Computerized Dynamnic Range of Motion and Functional Evaluation Reports and Computerized Muscle Testing, signed by Gergory N. Mrozinski, D.C. 15 pages
MRI Lumbar Spine Report dated 9/15/05 from East Side Imaging, Inc., unsigned by Edward Knudson, M.D. 1 page
MRI Thoracic Spine Report dated 9/15/05 from East Side Imaging, Inc., unsigned by Edward Knudson, M.D. 1 page
Request for Authorization of Reasonable and Necessary Services dated 8/11/05, signed by Philip Estrada, D.C. 1 page
Electrodiagnostics Explanation of Procedures Billed-Lower Extremity dated 9/20/05. 2 pages
EMS Supply Order dated 9/14/05, signed by Philip Estrada, D.C. 1 page
Conductive Garment Rx and Letter of Medical Necessity dated 9/20/05, signed by Philip Estrada, D.C. 1 page
EMG report dated 9/30/05 rom Neuro-Muscular Consultants, P.A., signed by Gregory N. Mrozinski, D.C. 6 pages
Letter dated 10/3/05 addressed to Philip Estrada, D.C. from Stephen I. Esses, M.D. 2 pages
Letter of Medical Necessity dated 10/18/05 addressed to "To Whom It May Concern" from Philip Estrada, D.C., letter unsigned. 1 page
Durable Medical Equipment Prescription dated 10/18/05 signed by Philip Estrda, D.C. 1 page
Workers Compensation Chiropractic Advisor Review dated 10/18/05 rom Intracorp, signed by Stephen Tomko, D.C. 3 pages
Texas Workers Compensation Work Status Report dated 10/20/095, signed by Philip Estrada, D.C. 1 page

Subsequent Medical Report dated 10/20/05 from Advanced Ortho Rehab, unsigned by Philip Estrada, D.C. 3 pages
Computerized Dynamic Range of Motion and Functional Evaluation Reports and Computerized Muscle Testing dated 10/28/05. 19 pages
Letter of Medical Necessity dated 11/1/05 from Advanced Ortho Rehab, signed by Philip Estrada, D.C. 1 page
Description of Services dated 11/3/05 for NMES muscle stimulator.4 pages
Workers' Compensation Chiropractic Advisor Review dated 11/18/05 from Intracorp, signed by Timothy J. Fahey, D.C. 6 pages
Computerized Dynamic Range of Motion and Functional Evaluation Reports and Computerized Muscle Testing dated 12/2/05. 19 pages
Texas Workers' Compensation Work Status Report dated 12/21/05, signed by Philip Estrada, D.C. 1 page
Independent Medical Evaluation dated 1/5/06 from MES Solutions, signed by Charles F. Xeller, M.D. 4 pages
Functional Capacity Evaluation Report dated 1/5/06 from MES Solutions, signature illegible. 8 pages
Texas Workers' Compensation Work Status Report dated 1/12/06, signed by Philip Estrada, D.C. 1 page
Texas Workers' Compensation Work Status Report dated 1/27/06, signed by Juan C. Galvan, D.C. 1 page
Initial Evaluation dated 1/27/06 from Total Rehab Institute, Inc., signed by Juan C. Galvan, D.C. 3 pages
Patient Treatment Record dated 1/27/06. 1 page
Report of Medical Evaluation dated 2/2/06, signed by Roger Moczygemba, M.D. 1 page
Designated Doctor Evaluation dated 1/31/06 from Roger Moczygemba, M.D. 2 pages
Computerized Dynamic Range of Motion and Functional Evaluation Reports and Computerized Muscle Testing dated 2/2/06, signed by Gregory N., Mrozinski, D.C. 19 pages
Texas Workers' Compensation Work Status Report dated 2/3/06, signed by Juan C. Galvan, D.C. 1 page
Statement of Medical Necessity dated 2/3/06 from Dr. Philip Estrada. 1 page
Patient Treatment Record dated 2/3/06. 1 page
Continuation Sheet dated 2/3/06. 1 page
Conductive Garment Rx and Letter of Medical Necessity dated 2/3/06, signed by Philip Estrada, D.C. 1 page
Texas Workers' Compensation Work Status Report dated 2/17/06, signed by Juan C. Galvan, D.C. 1 page
Patient Treatment Record dated 2/17/06. 1 page
Clinical Follow-Up dated 2/17/06 from Total Rehab Institute, P.A., signed by Juan C. Galvan, D.C. 2 pages
Report of Functional Capacity Evaluation dated 2/20/06 from Human Resource Performance and Rehabilitation Institute, printed signature of Gabriel R. Gutierrez, D.C. 19 pages
S.O.A.P. note from Joseph G. Valdez, M.D. 1 page
Patient Treatment Record dated 2/27/06. 1 page
Continuation Sheet dated 2/27/06, signed by Juan C. Galvan, D.C. 1 page
Texas Workers' Compensation Work Status Report dated 2/27/06, signed by Juan C. Galvan, D.C. 1 page
S.O.A.P. note dated 2/28/06 from Joseph g. Valdez, M.D. 1 page
Texas Workers' Compensation Work Status Report dated 3/13/06, signed by Juan C. Galvan, D.C. 1 page
Patient Treatment Record dated 3/13/06. 1 page
Continuation Sheet dated 3/13/06, signed by Juan C. Galvan, D.C. 1 page
S.O.A.P. note dated 3/14/06 from Joseph G. Valdez, M.D. 1 page
Texas Workers' Compensation Work Status Report dated 3/27/06, signed by Juan C. Galvan, D.C. 1 page
Patient Treatment Record dated 3/27/06. 1 page
Fax Cover Sheet dated 5/3/06 from Human Resource Performance & Rehabilitation Institute. 1 page

Summary of Treatment/Case History:
It was requested to perform a retrospective review of work hardening sessions from 2/20/06 to 3/31/06, a total of 17 sessions, including functional capacity evaluations. Documentation was provided that exceeded 700 pages that included all information from the carrier, the requesting provider as well as various other providers.

The patient alleges an industrial injury on ___ while employed as a driver/delivery man by .
The patient alleges the injury occurred while removing a stack of paper weighing approximately 1,000

pounds. The load shifted and he pushed against the paper to prevent it from falling on him. He apparently was successful and the load did not fall on him.

The complaint supposedly arose from twisting his back. The documentation indicates the patient did not experience any fractures or dislocations. The diagnosis appears to have been lumbar sprain/strain. The patient received chiropractic care from several doctors of chiropractic and had consultations with several medical doctors. X-rays were taken and multiple MRI's. The documentation further indicates that at no time was the patient considered a surgical candidate or appropriate for ESI's. There does not appear to have been any progressive neurologic deficits and there is no documentation that indicates any strong suspicion of underlying pathology.

On 2/6/06 the patient was seen at TBIH/HRPRI for evaluation and treatment of the lumbar area. A functional capacity evaluation was to be performed and assess for admission into a work hardening program. On 2/20/06 a functional capacity evaluation was performed by Human Resource Performance and Rehabilitation Institute. Sessions began 3/3/06 and continued to 3/31/06. At the end of the sessions the carrier was billed $10,000.00.

Questions for Review:
Dates of Service: 2/20/06 - 3/31/06
1. CPT #97545-WH-CA-Work Hardening, #97546-WH-CA-Work Hardening, #97750-FC-Functional Capacity Evaluation were denied for medical necessity. Please review for medical necessity.

Explanation of Findings:
Functional Capacity Evaluations, also known as functional ability evaluations and quantitative functional capacity evaluations, should only be ordered when crucial. Chapter 7, page 137-138 of the ACOEM guidelines indicate, "FCE's can be deliberately simplified evaluations based on multiple assumptions and subjective factors, which are not always apparent to their requesting physician. There is little scientific evidence confirming that FCE's predict an individual's actual capacity to perform in the workplace; an FCE reflects what an individual can do on a single day, at a particular time, under controlled circumstances, that provide an indication of that individual's ability. As with any behavior, an individual's performance on an FCE is probably influenced by multiple nonmedical factors other than physical impairments. For these reasons, it is problematic to rely solely upon the FCE results for determination of current work capability and restrictions. It is the employer's responsibility to identify and determine whether reasonable accommodations are possible to allow the examinee to perform the essential job activities."

Haldeman, et al, indicate in chapter 46, page 889-890, "Because most back problems are not caused by structural pathology (e.g., arthritis, herniated disc) or serious disease (e.g., tumor, infection, fracture), and because the majority benefit from prompt reassurance and early reactivation advice, the primary goal of care should be to reassure patients about the benign nature of their pain and the safety and value of resuming normal activities." "Deconditioning is the diminished ability to perform tasks involved in a person's usual activities of daily living. In the Agency for Health Care Policy and Research's low back pain guidelines it is stated that the
'main goal for treatment of back pain has shifted from treatment of pain to treatment of activity intolerances related to pain." "Another clinical standard involves the use of tests of physical impairments such as ROM or strength. Unfortunately, most impairments typically measured show a rather tenuous correlation to both pain and activity intolerances. In fact, these measures have been shown to be related as much to an individual's motivation to perform as to their actual physical performance ability."

Work conditioning is a highly specialized rehabilitation program that spans the transition from traditional rehabilitation therapies to return to work by simulating workplace activities and surroundings in a monitored environment. Programs may be developed and carried out by an occupational therapist and/or physical therapist. The goal is to create an environment in which returning workers can rebuild psychological self-confidence and physical reconditioning by replicating their work routine. In the present case the patient did not require work conditioning/hardening, but should have been in a self-directed

home exercise program of strengthening, stretching, increasing flexibility and muscle tone. This does not require licensed supervision or be performed in an office/gym environment, but can be performed by the patient, at home and at their own speed. There is no documentation from the provider that indicated his facility could duplicate a truck cab, driving, working pedals and the steering wheel, getting in and out of a truck, carry packages, etc., in and out of a truck, or the other myriad functions performed by a deliveryman/driver. It appears the patient was involved in cardio training, range of motion, squatting, etc. Basically, it appears the patient was undergoing normal exercise.

It is interesting to note the MRI indicates an alleged HNP on the left but the NCV was positive on the right. That is a disconnect and questions the validity of both the MRI and the NCV. There is also a question as to the alleged needle EMG which actually appears to be a NCV. "A minimal evaluation for radiculopathy includes one motor and one sensory NCS and a needle EMG examination of the involved limb." American Medical Association CPT Assistant. 2006.

Studies using surface recording electrodes are not considered to be in the mainstream of neurological diagnostic testing. Studies have not shown portable nerve conduction devices to be effective diagnostic tools and the results are questionable. Nerve conduction studies have no validity in the absence of needle electromyography because the clinical utility of performing only one study is considered not medically necessary.

The basis of the whole program for this patient was a lumbar MRI that allegedly indicated a L5-S1 herniated nucleus pulposus. The Annals of Internal Medicine indicates "Advanced imaging should be reserved for patients who are considering surgery or those in whom systemic disease is strongly suspected."

The Bulletin on Rheumatic Diseases indicates "MRI studies have revealed the presence of herniated disks in 22% to 40% and bulging disks in 24% to 81% of asymptomatic adults. These studies should be reserved for patients for whom there is a strong clinical suspicion of underlying infection, cancer, or persistent neurological deficit."

Boden, et al, indicates abnormal magnetic resonance scans of the lumbar spine in asymptomatic subjects.

McKesson's QualityFIRST guidelines indicates, "MRI scans of the lumbar spines of 98 people without back pain revealed that 52% of those studies had a bulging lumbar intervertebral disk and 27% had a protruding lumbar intervertebral disk, results that led the investigators to conclude that such findings may often be coincidental in patients who have low back pain. Similar results have been found in studies based on MRIs of the thoracic spine in asymptomatic subjects."

There is no documentation that clearly indicates the patient at any time experienced progressive neurological deficits, demonstrated any symptoms that would lead one to believe there was an underlying soft tissue pathology or was ever considered to be a surgical candidate. On 8/12/05 the patient stated to Advanced Ortho Rehab that he did not have radiating pain. On 9/30/05 Neuro-Muscular Consultants indicates the patient complained of right knee numbness. The question is raised why such extensive treatment, testing and then eventually work hardening (work conditioning) was provided to a patient with a simple sprain/strain of the low back and clearly lacked any remarkable symptoms of a L5-S1 intervertebral disc syndrome?

There is no medical necessity shown for the functional capacity evaluation performed on 2/20/06, the work hardening sessions from 3/3/06 to 3/31/06 or the second functional capacity evaluation performed on 3/31/06.

Conclusion/Decision to Not Certify:
Medical necessity is not shown for the functional capacity evaluations or the work hardening sessions. (CPT #97545, #97546 and #97750)

Applicable Clinical or Scientific Criteria or Guidelines Applied in Arriving at Decision:
This decision is based upon documentation, local and national community standards and the following references:

References Used in Support of Decision:
1) Occupational Medicine Practice Guidelines, 2nd Edition, American College of Occupational and Environmental Medicine, OEM Press, 2004. Citations are referenced in the text of the discussion.

2) Haldeman, S, et al. Principles and Practice of Chiropractic, Third Edition, McGraw Hill, 2005. Citations are referenced in the text of the discussion.

3) Bulletin on Rheumatic Diseases, April, 2001.

4) Boden SD, Davis DO, Dina TS, et al. Abnormal magnetic-resonance scans of the lumbar spine in asymptomatic subjects. J Bone Joint Surgery 1990;72-1(3): 403-408.

5) Jarvik JG, Deyo RA. Diagnostic Evaluation of Low Back Pain with Emphasis on Imaging. Ann Intern Med 2002;137: 586-597.

This reviewer has been provided by a licensed chiropractor in active practice for over twenty years. This reviewer is a Board eligible Chiropractic Orthopedist and is a member of their state Chiropractic Association and the American Chiropractic Association. This reviewer specializes in disability evaluation, industrial injuries, roentgenology and independent medical examinations and is active in continuing education related to disability and impairment ratings. The reviewer has additional qualifications and training in Acupuncture. This reviewer is certified by their State Chiropractic Association in Industrial Disability examinations and evaluations.

MRIoA 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 MRIoA 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 MRIoA 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 MRIoA 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 MRIoA 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.

1268288.1
Case Analyst: Stacie S ext 577