

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-05-3170.M2**

MEDICAL REVIEW OF TEXAS

[IRO #5259]

**3402 Vanshire Drive Austin, Texas 78738
Phone: 512-402-1400 FAX: 512-402-1012**

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M2-05-0200-01
Name of Patient:	
Name of URA/Payer:	Travelers Indemnity Co.
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	

October 29, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating

physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Medical Director

CLINICAL HISTORY

Documents Reviewed Included the Following:

1. Correspondence from the provider
2. Correspondence from the carrier
3. Carrier reviews
4. Report from "back@work rehab"
5. Report from Dr. R, M.D.
6. Report from Dr. S, M.D.
7. Report from ____, LCSW
8. Diagnostic imaging reports
9. Electrodiagnostic examination report

Patient underwent physical medicine treatments after injuring her shoulders, neck and upper back while lifting 20-pound bags of flour at work on ____.

REQUESTED SERVICE(S)

Medical necessity of the proposed 8-week work hardening program.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

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 proposed 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 provider’s argument in favor of the proposed work hardening program focused primarily on his personal experience in the Mexican food industry (“I have far more practical knowledge of what goes on in a Mexican restaurant than almost anyone.”), his allegations that the employer is wrong about the claimant’s duties and “the D.O.T. got it wrong” when it classified the claimant’s job position. In the opinion of this reviewer, the first-hand knowledge of the employer and the documented information furnished by DOT carries far greater weight than the unsubstantiated, personal opinions of the provider based on his past restaurant experience.

Moreover, the previously attempted active therapy (reported as “modest active rehabilitation,” “active exercise based therapy” and gradually increased “intensity levels of the therapeutic exercises”) had within it the exercises and modalities that are inherent in and central to the proposed work hardening program. In other words and for all practical purposes, much of the proposed program has already been performed. Therefore, since the patient is not likely to benefit in any meaningful way from repeating the same or similar exercises, the work hardening program is medically unnecessary.

Therapeutic exercises may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home with the least costly

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 77th Legislature, page 6.

of these options being a home program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the provider has failed to establish why the proposed services must be performed one-on-one.

In regard to the psychological report that opined work hardening was necessary, 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

While the provider stated the patient "is now in great need of a work hardening program," "is VERY likely to benefit from a work hardening program," "will absolutely NEED work hardening," and "the necessity of work hardening has been conclusively PROVEN," there is no documentation to support those statements. In fact, the submitted medical records do not in any way substantiate that the proposed work hardening program would further relieve the patient's condition, further promote recovery or further enhance the employee's ability to return to employment. Therefore, the statutory requirements⁶ for medical necessity were not met.

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

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 29th day of October, 2004.

Signature of IRO Employee: _____

Printed Name of IRO Employee: