

March 10, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-1025-01

CLIENT TRACKING NUMBER: M2-05-1025-01-5278

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIOA for independent review in accordance with TWCC 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 TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIOA for independent review.

Records Received:

Records Received from the State:

- Notification of IRO Assignment, dated 02/24/05
- Texas Workers' Compensation Commission Form, dated 02/24/05
- Fax Cover Sheet, dated 11/29/04
- Pre-Authorization Request TWCC Advisory 96-11, dated 11/29/04
- Fax Confirmation, dated 11/29/04
- Fax Confirmation, dated 11/29/04
- Pre-Authorization Determination, dated 12/03/04

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- Request for Reconsideration, dated 12/22/04
- Fax Confirmation, dated 12/22/04
- Letter from CorVel to Dr. Howell, dated 12/29/04

Records Received from the Carrier:

- Letter from S. Rhett Robins to Medical Review Institute of America, dated 03/04/05
- Letter from Jeremy Lord to TWCC, dated 02/18/05
- Medical Dispute Resolution Request/Response, dated 02/09/05
- Letter from CorVel to Texas Municipal League, dated 02/15/05

Records Received from the Provider:

- Letter from Dr. Howell to Medical Review Institute of America, dated 03/07/05
- Amended Initial Examination, dated 09/21/04
- Follow Up Notes, dated 11/02/04
- Initial Evaluation Narrative, dated 08/16/04
- Fax Confirmation, dated 11/29/04
- Re-Evaluation Narrative, dated 11/09/04
- Diagnostic Interview, dated 11/15/04
- Letter fro, Dr. Howell to City of Brownsville, dated 11/18/04
- Employer's Questionnaire, undated
- Job Analysis/Description, undated
- Letter from Dr. Howell to CorVel Corporation, dated 11/29/04
- Letter from CorVel to Dr, Howell, dated 12/03/04
- Request for Reconsideration from Dr. Howell, dated 12/22/04 - 4 pages
- Job Description
- Letter from CorVel to Dr. Howell, dated 12/30/04
- Radiographic Biochemical Report, dated 08/26/04
- L-Spine Report, dated 08/16/04
- 3rd Functional Capacity Evaluation, dated 10/27/04
- 2nd Functional Capacity Evaluation, dated 09/17/04
- Initial Functional Capacity Evaluation, dated 08/17/04
- MRI of the Lumbar Spine, dated 09/27/04
- Letter from Jeremy Lord to TWCC, dated 02/18/05
- Medical Dispute Resolution Request/Response, dated 02/09/05
- Texas Workers' Compensation Work Status Report, dated ??/20/04
- Texas Workers' Compensation Work Status Report, dated 11/09/04
- Texas Workers' Compensation Work Status Report, dated 10/27/04
- Medical Dispute Resolution Request/Response, undated
- Copy of Check #02212074
- Texas Workers' Compensation Form, dated 02/24/05
- Texas Workers' Compensation Form, dated 02/11/05
- Texas Workers' Compensation Form, dated 01/18/05

Summary of Treatment/Case History:

The 3/7/05 communication from the doctor indicated that the claimant was injured on the job on

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___ when he was digging a ditch. His summary of treatment with the chiropractor indicated he had received 1 hot/cold pack treatment, 23 treatments of ultrasound, 3 treatments of attended electrical stimulation, 12 massage therapy treatments, 9 aquatic therapy treatments, and 12 therapeutic exercise treatments. The doctor also stated that therapeutic exercises by themselves are general in nature and are not job specific, therefore they would be of no benefit. The patient underwent three functional capacity evaluations, and the last FCE, done on 10/27/04 revealed marked reductions in the claimant's ability to lift above the shoulder, from knuckle to shoulder, and from floor to knuckle. However, a side note from the doctor on page 3 of the 3/7/05 report indicated that the reduction in physical performance was not due to the compensable injury in this case and was secondary to surgery for a different compensable injury that occurred between the 9/17/04 FCE and the 10/27/04 FCE.

The 11/2/04 report from Donald Kramer MD indicated the patient's pain level was only 2/10 and there was no evidence of mental stress (anxiety, agitation, suicidal ideation, depression, hallucinations, or sleep disturbance). The report recommended therapeutic exercises, but did not recommend work hardening.

The 11/9/04 examination from the chiropractor revealed the claimant had normal lumbar ranges of motion and his Oswestry Low Back Disability questionnaire only scored 6%, indicating minimal disability (interference with activities of daily living).

The 11/16/04 report from Rick Moses PhD did not provide substantive evidence that the patient required a multidisciplinary work hardening program based on the presence of psychological barriers to care.

The doctor submitted a request for work hardening x 30 sessions on 12/3/04 and the request was denied by the carrier. The denial indicated that the request for work hardening was not clinically indicated because the back injury occurred less than four months ago with no surgical intervention. The denial also indicated that the FCE examiner concluded that the claimant qualified for heavy work category in the restricted plane and medium work category in the unrestricted plane. There were no psychological factors that impacted the course of treatment to warrant a multi-disciplinary work hardening program. A subsequent request for reconsideration of the work hardening request was denied on 12/29/04.

Questions for Review:

1. Service in dispute: Please advise medical necessity for the work hardening program X 30 sessions.

Explanation of Findings:

Question 1: Service in dispute: Please advise medical necessity for work hardening program x 30 sessions.

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The request for work hardening program x 30 sessions is not medically necessary based on the documentation provided for review. The doctor's documentation indicated that the patient's functional performance deficits noted on the 9/17/04 FCE were not due to the compensable injury, but the deficits were due to a surgery that the patient had for a separate, unrelated injury.

Secondly, the patient had an inadequate course of therapeutic exercises, as a course of only 12 therapeutic exercise sessions is inadequate for treatment of a lower back injury. The bulk of the patient's care in this case consisted of inappropriate passive modalities and, contrary to the doctor's report which indicated therapeutic exercises were of no further benefit, current literature does not support his position. The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (e.g., thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. (Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. *Phys Ther.* 2001;81:1641-1674).

Thirdly, the doctor provided no contemporaneous progress notes documenting the patient's lack of response to the twelve sessions of therapeutic exercises in this case. The records contained no specifics related to the following usual and customary exercise-related documentation:

- Type of exercise(s) utilized
- Increases in repetitions
- Increases in weight moved during exercise
- Increases in range of motion
- Increases in endurance

Haldeman et al indicated that the patient's records must be sufficiently complete to provide reasonable information requested by a subsequent healthcare provider, insurance company, and/or attorney. A dated record of what occurred on each visit and any significant changes in the clinical picture or assessment, or treatment plan need to be noted (Haldeman, S., Chapman-Smith, D., and Petersen, D., *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Aspen, Gaithersburg, Maryland, 1993).

The documentation submitted did not support the position that the patient required a multidisciplinary work hardening program. The request for the program was made only 3 ½ months post-injury, and current literature indicates that work hardening programs are generally considered for injuries of much longer duration. Wier and Nelson indicated that modified work programs may improve return-to-work rates of workers with work-related injuries for 6 months or longer. There is inadequate evidence to determine what particular aspects of modified work programs are helpful. Work conditioning and work hardening may or may not improve the return to work of more chronically disabled workers (Wier, R, and Nelson, WR, "Interventions for disability management", *Clin J Pain.* 2001 Dec;17(4 Suppl):S128-32). As previously noted, the patient's course of therapeutic exercise care was inadequately documented and was most likely of inadequate duration.

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Conclusion/Decision to Not Certify:

The request for work hardening program x 30 sessions is not medically necessary based on the documentation provided for review.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:

Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993.

References Used in Support of Decision:

Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. Phys Ther. 2001;81:1641-1674.

Wier, R, and Nelson, WR, "Interventions for disability management", Clin J Pain. 2001 Dec;17(4 Suppl):S128-32.

This review was provided by a Doctor of Chiropractic who is also a member of the American Chiropractic Academy of Neurology. This reviewer also holds a certification in Acupuncture. This reviewer has fulfilled both academic and clinical appointments and currently serves as an assistant professor at a state college, is in private practice and is a director of chiropractic services. This reviewer has previously served as a director, dean, instructor, assistant professor, and teaching assistant at a state college and was responsible for course studies consisting of pediatric and geriatric diagnosis, palpation, adjusting, physical therapy, case management, and chiropractic principles. This reviewer is responsible for multiple postgraduate seminars on various topics relating to chiropractics and has authored numerous publications. This reviewer has participated in numerous related professional activities including work groups, committees, consulting, national healthcare advisory committees, seminars, National Chiropractic Coalition, media appearances, and industrial consulting. This reviewer has been in practice since 1986.

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, patient and the TWCC.

YOUR RIGHT TO REQUEST A HEARING

Either party to the medical dispute may disagree with all or part of this 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 receiving the TWCC chief Clerk of Proceedings within ten (10) days of your receipt of this decision as per 28 Texas Admin. Code 142.5.

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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 twenty (20) days of your receipt of this decision as per Texas Admin. Code 102.4 (h) or 102.5 (d). A request for hearing should be sent to:

Chief Clerk of Proceedings
Texas Workers' Compensation Commission
POB 40669
Austin, TX 78704-0012

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute

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.

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cc: Requestor
Respondent