

July 19, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M2-05-1851-01 /
CLIENT TRACKING NUMBER: M2-05-1851-01 /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 state:

- TWCC Notification of IRO Assignment 6/14/05
- Letter to MRIOA from TWCC 6/14/05
- Medical Dispute Resolutions Request/Response
- List of treatment physicians
- Table of Disputed Services
- UniMed Direct LLC report 4/26/05, 5/9/05

Records received from Nick Talarico, DC:

- Medical Documentation Summary 4/20/05, 5/3/05
- Subsequent Medical Report, Jose Diaz, MD 5/25/05, 4/27/05, 3/30/05, 3/2/05

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- FCE report 3/31/05
- Pain Questionnaire 3/31/05
- Functional Testing Consent and Release Form 3/31/05
- Visual Pain Rating Scale & Pain Diagram 3/31/05
- Chronic Pain Management Program Discharge Team Conference Report
- Texas Workers' Compensation Work Status Report 3/28/05
- MRI reports of LT knee, RT knee, LT elbow, RT elbow 10/17/03 and RT ankle 10/24/03
- Referral 3/24/04
- Office notes, Manouchehr Refaeian, MD 9/23/03, 9/9/03, 9/2/03
- Duplicates - 4 pages

Records from Insurance Company:

- Claims Management, Inc. Independent Review Organization Summary 6/20/05
- UniMed Direct LLC report 4/26/05, 5/9/05
- Employer's First Report of Injury or Illness
- Notice of Disputed Issue(s) and Refusal to Pay Benefits 12/13/04
- Radiology report 8/28/03
- Emergency Department Record 8/28/03
- Office notes, Joseph K. Ford, MD 8/28/03
- Office notes, Manouchehr Refaeian, MD 9/2/03, 9/9/03
- Texas Workers' Compensation Work Status Report 9/2/03, 9/9/03, 9/23/03
- Work restriction 9/9/03
- Chiropractic notes, Carlos Rodriguez, DC 9/26/03, 9/30/03
- Chiropractic daily notes 9/29/03-11/24/04
- Texas Workers' Compensation Work Status Report 9/26/03, 10/13/03, 11/3/03, 11/17/03, 12/3/03, 12/31/03, 1/31/04, 6/30/04, 12/30/04, 3/28/05, 4/26/05
- Initial Medical Report 9/30/03
- MRI reports of RT elbow, LT elbow, RT knee, LT knee 10/17/03 and RT ankle 11/17/03
- PPE report 10/28/03, 10/30/03, 3/1/04, 6/9/04
- Orthopaedic Consultation, Jose Diaz, MD 11/5/03
- Texas Workers' Compensation Work Status Report 11/5/03, 11/19/03, 12/3/03, 1/14/04, 2/11/04, 3/10/04, 4/7/04, 4/28/04, 7/21/04, 8/18/04, 9/15/04, 10/6/04, 4/27/05, 5/25/05
- Subsequent Medical Report, Jose Diaz, MD 11/19/03, 12/3/03, 1/14/04, 2/11/04, 3/10/04, 4/7/04, 4/28/04, 7/21/04, 8/18/04, 9/15/04, 10/6/04, 1/19/05, 2/16/05, 3/2/05, 3/30/05, 4/27/05, 5/25/05
- X-ray report chest 11/20/03, 4/26/04, 9/28/04 and RT knee 10/7/04
- Operative note, Jose Diaz, MD 11/25/03, 4/29/04, 10/7/04
- Anesthesia Record 11/25/03, 4/29/04, 10/7/04
- Letter re: Office visit for TWCC-73 12/3/03, 12/30/04, 3/28/05, 4/26/05
- FCE report 1/12/04, 6/21/04, 12/9/04, 3/31/05
- Behavioral Evaluation of Pain, Dwayne D. Marrott, PhD 4/30/04
- Surgical Pathology Report 4/29/04, 8/26/04
- Peer Review report 9/29/04
- Rehab H&P, Wendy Goodrich, PA-C 10/15/04
- Right leg venous doppler report 10/16/04

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- Progress notes, Wendy Goodrich, PA 10/16/04, 10/18/04, 10/20/04, 10/21/04
- Progress notes, Charles Hold, PA-C/Kevin J. Sandberg, MD 11/17/04, 1/13/05, 3/7/05
- Texas Workers' Compensation Work Status Report 11/17/04, 1/13/05, (3/7/05),
- Pain Management Initial Consult, Manouchehr Refaeian, MD 1/28/05
- Physical/Aquatic Therapy/Work Hardening-Conditioning/Chronic Pain Management Notes
- Physical Medicine Notes, Manouchehr Refaeian, MD 9/9/03, 9/11/03, 9/16/03, 9/18/03, 9/23/03
- Team Conference 10/19
- Sun City Physical Medicine & Rehab therapy notes 6/24/04-2/9/05
- Behavioral Assessment Packet Report
- Individual Psychotherapy Sessions, Dwayne D. Marrott, PhD 5/24-6/10/04
- Chronic Pain Management Program Treatment Report 2/21-3/28/05
- Home Health Certification and Plan of Care
- Addendum to Plan of Care

Summary of Treatment/Case History:

The claimant underwent physical medicine treatments, diagnostic imaging, chronic pain management and surgery after falling at work on ____.

Questions for Review:

1. Is the proposed work hardening program medically necessary to treat this patient's injury?

Explanation of Findings:

1. Is the proposed work hardening program medically necessary to treat this patient's injury?

No. 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.

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

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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, there is no support for the proposed work hardening treatment.

Moreover, the previously attempted chronic pain management program had within it the self-help strategies, coping mechanisms, 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 attempted. Therefore, since the patient is not likely to benefit in any meaningful way from repeating past treatments, the proposed work hardening program would be both excessive and duplicative.

And finally, this reviewer concurs with the psychologist and the pain management specialist who on 03/28/05 (after the completion of the chronic pain management program) opined that the claimant should continue with home exercise and obtain a YMCA membership.

Conclusion/Decision to Not Certify:

The proposed work hardening program is not medically necessary to treat this patient’s injury.

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 77th 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.

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, 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.

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.

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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.

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: American Home Assurance Co