



## **IMED, INC.**

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### **NOTICE OF INDEPENDENT REVIEW**

**NAME OF EMPLOYEE:**  
**IRO TRACKING NUMBER:** M2-06-1843-01  
**NAME OF REQUESTOR:** Advantage Healthcare Systems  
**NAME OF CARRIER:** Pacific Employers Ins/ESIS  
**DATE OF REPORT:** 09/01/06  
**IRO CERTIFICATE NUMBER:** 5320

#### **TRANSMITTED VIA FAX:**

IMED, Inc. has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO).

In accordance with the requirement for TDI to randomly assign cases to IROs, TDI has assigned your case to IMED, Inc. for an independent review. The peer reviewer selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the peer reviewer reviewed relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by a chiropractic physician reviewer who is Board Certified in the area of Chiropractic Medicine and is currently listed on the DWC approved doctor list.

I am the Secretary and General Counsel of IMED, Inc., and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and the provider, the injured employee, 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 Independent Review Organization. I further certify that no conflicts of interest of any nature exist between any of the aforementioned parties and any director, officer, or employee of IMED, Inc.

#### **REVIEWER REPORT**

I have reviewed the records forwarded on the above injured worker and have answered the questions submitted.

**Information Provided for Review:**

1. Chiropractic office notes beginning on 01/15/03 and ending on 07/07/06.
2. EMG consultation report from Pedro Nosnik, M.D., dated 02/04/03.
3. Multiple chiropractic peer review reports.
4. MRI of the left shoulder dated 04/08/03.
5. Independent Medical Evaluation from J. Czewski, E.O.
6. Designated Doctor Evaluation dated 04/30/03.
7. MRI of the cervical spine dated 05/14/03.
8. Records from B. Cunningham, M.D.
9. Left carpal tunnel operative report dated 11/11/03.
10. W. Hester, Ph.D., evaluation and behavioral therapy psychology notes dated 03/31/04 thru 10/11/04, & April, 2005 and July, 2005
11. Functional Capacity Evaluation dated 07/14/04.
12. Designated Doctor Evaluation dated 10/29/04.
13. K. Bayles, D.O., office notes.
14. Left shoulder operative report dated 02/10/05.
15. Repeat EMG study dated 04/04/05.
16. 06/06/05 – Impairment rating report.
17. Work hardening assessment report from W. Hester, Ph.D., dated 09/08/05.
18. Multiple Designated Doctor Evaluations were performed by D. West.
19. Addendum report from D. West, D.O., regarding prior impairment rating.
20. Functional Capacity Evaluation dated 01/23/06.
21. Pablo Espana, D.C., letter of necessity for work hardening dated 02/16/06.
22. Advantage Healthcare Systems notes requesting individual counseling and biofeedback at a frequency of two to three times per week.
23. Work hardening notes dated 02/16/06 thru 03/24/06.
24. Advantage Healthcare Systems physical performance evaluation dated 06/20/06.
25. Recommendation letters for a chronic pain management program from Advantage Healthcare Systems.

**Clinical History Summarized:**

The records indicate that on or around \_\_\_\_ the employee was a 39 year old female, who reported an alleged occupational injury. The employee was employed by a bus transit line and was required to carry luggage.

A report generated by the employee's treating chiropractor on 01/15/03 detailed the alleged occupational injury. It was stated, "Accident occurred when I lifted a bag that was a little too

heavy, and when I attempted to lift a bag but couldn't. I felt a sharp pain in my hands, wrists, and upper arms. I reported it to my supervisor. I did not seek medical attention at that time."

This was the detailed accident information as documented on 01/15/03. Also on that date, the employee's pain levels were reported at 8/10 in all areas, and this also included areas such as cervical spine, left shoulder, right shoulder, elbows, wrists, and thoracic spine.

A chiropractic evaluation on 01/15/03 included range of motion testing and isometric muscle strength testing. Multiple forms of positive orthopedic tests were also documented, and the employee had some self-administrated questionnaires designed to document shoulder pain scores, visual analog scale pain scores, and carpal tunnel syndrome complaints.

The employee was originally diagnosed by L. Stolar, D.C., as having bilateral sprain/strain injuries to the shoulders, wrists, and elbows. Chiropractic treatment was started on 01/07/03 and off work status was also started on the same date.

Interestingly, on 02/04/03 when the employee was seen by P. Nosnik, M.D., her documented history of the event changed. On this date, the employee now remembered that she was at work performing repetitive activities which would cause her pain. Dr. Nosnik further indicated that the employee was dropping things out of her hands, had significant tingling, paresthesias, and weakness. An EMG study was performed by Dr. Nosnik, and it was his impression that the employee had acute and chronic moderate to advance bilateral carpal tunnel syndrome. Dr. Nosnik also suggested that the employee had a traumatic injury to the left elbow with ulnar entrapment syndrome, and he indicated the employee had a cervical discogenic pain with radiculopathy along with a C5-C6 radiculopathy on the left. Dr. Nosnik further indicated that he documented high blood pressure for which he suggested following up with her primary care doctor.

A peer review physician, T. Fahey, D.C., documented further that the employee was morbidly obese with a height 5 foot 3 inches and a weight of 250 pounds. During his peer review on 02/24/03, Dr. Fahey indicated that at the very most this employee had soft tissue injury involving multiple areas of sprain/strain. He indicated that the natural course of healing would prevent the necessity of any further treatment after 03/01/03.

When B. Cunningham, M.D., first evaluated the employee on 03/19/03, her pain level was still documented at 8/10. This confirmed absolutely no improvement between the months of January through March, 2003. The employee also had evidence of prior conditions such as diabetes Type II, high blood pressure, asthma, gall bladder disease, and migraines. It is interesting to note that throughout these records, even the employee's past medical history, has multiple variations and/or variability.

After Dr. Cunningham performed his examination, he suggested that multiple braces and immobilizers be utilized to this employee's sprain/strain injury. He also suggested that the employee may have some form of shoulder impingement, tendonitis, and/or nerve root entrapment.

A left shoulder MRI performed on 04/08/03 revealed no evidence of acute or traumatic structural pathology. There were some degenerative signals noted in the supraspinatus tendon, as well as degenerative signal in and around the acromioclavicular joint. Otherwise, outside of the previous degenerative changes, the employee had an essentially normal MRI of the left shoulder.

J. Czewski, D.O., performed the first of many second opinion examinations. Dr. Czewski performed an Independent Medical Evaluation (IME), and he was the third of three separate physicians to have documented another different variation of the employee's history. At this point, the employee remembered that she sustained injuries to her neck, mid back, both shoulders, upper arms, forearms, elbows, and wrists when she was assisting a customer to carry multiple bags to a bus which was "too far away to carry". It was further reported by the employee that she was carrying a tote bag on each shoulder, pulling several bags, and carrying bags in her hands. It appeared a tote bag on each shoulder began to slip off her shoulders, and after she walked approximately twenty feet, she had the "sudden onset of pain in all of the above areas at the same time". Dr. Czewski found many questionable statements made by the employee during the examination process. He also found questionable subjective complaints during the physical examination. There were actually many nonphysiologic complaints as reported by Dr. Czewski during the examination. Nevertheless, Dr. Czewski did suggest that the employee had reached Maximum Medical Improvement (MMI) with a 5% whole person impairment rating based upon range of motion deficits of the multiple extremities.

An MRI of the cervical spine was later performed on 05/14/03 and revealed some minimal degenerative changes, specifically at the level of C4-C5 and C5-C6.

Beginning on 08/11/03, Dr. Cunningham began changing his suggested diagnosis to include impingement syndrome of the left shoulder, as well as carpal tunnel syndrome of the left hand, even though the EMG study suggested that the right side was worse than the left.

As of 09/03/03, it was reported that the employee was now treating with Dr. Sappington, who had apparently bought the clinic from the previous chiropractor. As of 09/03/03, the employee's pain level was documented as 10/10, which was higher than it had ever been.

A left AC joint injection was performed on 09/15/03 by Dr. Cunningham. Later this physician performed a left carpal tunnel release on 11/11/03. During his follow-up note of 12/04/03, Dr. Cunningham suggested that the employee start hand therapy on or around that date.

As of 03/31/04, W. Hester, Ph.D., performed a psychological evaluation. The employee's pain levels on that date were 9/10, and Dr. Hester suggested the need for a work hardening program, as well as physical therapy and chiropractic treatments. It appears that work hardening did not start at that time, but some form of consultation for anxiety, depression, and elevated stressors was documented between April, 2005 and July, 2005.

Throughout the year 2005, it appears the work hardening program suggested by Dr. Hester was not performed, but the employee was instead referred to Dr. K. Bayles. This orthopedic surgeon suggested that the claimant had impingement syndrome, C joint hypertrophy, cervical dysfunction, lateral epicondylitis, and left scapular bursitis. Dr. Bayles suggested the need for a right shoulder arthroscopy, even though the employee's pain was in the left shoulder.

On 02/10/05, the employee underwent a left shoulder arthroscopic procedure including a modified Mumford resection. Debridement of SLAP lesion was also performed.

A repeat electrodiagnostic study was performed on 04/04/05. There was no abnormality of any kind documented.

By June, 2005, Dr. West performed his final Designated Doctor Evaluation. He now rated the claimant with a 7% whole person impairment rating based on her previous surgical interventions.

Eventually on 09/08/05, the employee was again seen by W. Hester, Ph.D. He was now recommending work hardening, but then he also stated that he would recommend an eventual referral to Texas Rehabilitation Commission to help the employee to broaden her employment options.

As of 2006, Dr. Sappington referred the claimant to Dr. Espana for another Functional Capacity Evaluation (FCE). This was performed on 01/23/06, and it was reported that the employee fell in the medium duty lifting category. However, she was unable to lift more than 5 pounds safely from the floor, and no more than 7 pounds safely during a high near lift. This would place the employee into a sedentary position. Nevertheless, work hardening was suggested, as was biofeedback.

The notes indicate that work hardening was performed throughout March, 2006. A repeat physical performance examination on 06/20/06 suggests that the employee had "range of motion deficits, severe weakness, and gross deconditioning". This indicates that the prior work hardening program had absolutely no benefit.

The final notes provided for review are from multiple physicians in the group practice known as A-Medical Advantage Healthcare Systems. These notes were provided from a medical physician, a licensed psychology counselor, a doctor of osteopathy, and a doctor of chiropractic. They all suggested multiple treatments needed to be undertaken at this time.

**Disputed Services:**

Item in Dispute: Preauthorization request: Chronic behavioral pain management program x 10 sessions.

**Decision:**

Denial upheld.

**Rationale/Basis for Decision:**

These records clearly suggest that the majority of this claimant's treatment has been unnecessary. The claimant reached MMI for her "soft tissue injury" no later than March, 2003. The employee's pain levels have fluctuated wildly over the last three years, and her objective findings have remained relatively stable. The employee never had any significant evidence of acute or traumatic structural pathology, and oddly enough, her own recollection of events changed every time she was seen by a new physician. These records appear to suggest the employee was not suffering from any specific occupational event, but instead was suffering from some type of somatoform disorder. Regardless, the employee has failed attempts at nearly every known treatment in the workers' compensation system for this uncomplicated sprain/strain injury which had multiple preexisting comorbidities such as diabetes mellitus, hypertension, morbid obesity, and other degenerative conditions. All of these prior findings which were clearly documented in these records would support the fact that this employee is in no way a candidate for a chronic pain management program. There were no specific findings which would support the claimant's subjective complaints. Furthermore, the employee has already undergone a work hardening program with biofeedback and previous psychotherapy. All of the components of a chronic pain program have already been attempted and failed.

In summary, a preauthorization request for a chronic behavioral pain management program is not reasonable or medically necessary based upon Texas Labor Code 408.021. This labor code suggests that a medically necessary treatment must provide cure or relief, progress toward recovery, or enhancement of employability. Since all of the prior components of a chronic pain

management program have already been attempted and failed to provide any significant cure or relief, progress toward recovery, or enhancement of employability, it is clear that a chronic pain program is not appropriate for this employee.

The rationale for the opinion stated in this report is based on the record review, as well as the broadly accepted literature to include numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician with IMED, Inc. is deemed to be a DWC decision and order.

### **YOUR RIGHT TO REQUEST A HEARING**

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than thirty (30) days after the date on which the decision that is the subject of the appeal is final and appealable.

If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing, and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision. A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk  
TDI-Division of Workers' Compensation  
P.O. Box 17787  
Austin, TX 78744

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 this dispute.

If you are disputing the decision, the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later

**Case No.: M2-06-1843-01**

**Page Eight**

than thirty (30) days after the date on which the decision that is the subject of the appeal is final and appealable.

I hereby verify that a copy of this Independent Review Organization's decision was sent to the respondent, the requestor, DWC, and the injured worker via facsimile or U.S. Postal Service this 5th day of September, 2006 from the office of IMED, Inc.

Sincerely,

A handwritten signature in cursive script that reads "Charles Brawner".

Charles Brawner  
Secretary/General Counsel