**Texas Department of Insurance, Division of Workers' Compensation**
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

# MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

## Amended Retrospective Medical Necessity Dispute

**PART I: GENERAL INFORMATION**

**Type of Requestor:** (X ) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier

| | |
|---|---|
| Requestor's Name and Address:<br>Rehab 2112<br>P O BOX 671342<br>Dallas, Texas 75267-1342 | MDR Tracking No.: Old # M5-04-1282-01<br>**New # M5-04-1282-02**<br>Claim No.:<br>Injured Employee's Name: |
| Respondent's Name and Address:<br>ACE American Insurance Company<br>Box 15 | Date of Injury:<br>Employer's Name:<br>Insurance Carrier's No.: |

**PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY**

DOCUMENTATION SUBMITTED: DWC-60 dispute package
POSITION SUMMARY: Per the table of disputed services "Services were medically necessary"

**PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY**

DOCUMENTATION SUBMITTED: Response to DWC-60
POSITION SUMMARY: In addition, the peer review indicates the treatment provided would not be medically necessary or related to the injury of .

**PART IV: SUMMARY OF DISPUTE AND FINDINGS**

| Date(s) of Service | CPT Code(s) or Description | Medically Necessary? | Additional Amount Due (if any) |
|---|---|---|---|
| 06-19-03 to 07-28-03 | 99213 and 97110 | ☒ Yes ☐ No | $818.00 |
| 07-28-03 & 9-12-03 | 97750-FC | ☒ Yes ☐ No | $693.50 |
| 09-02-03 to 09-11-03 | 97545-WH-CA and 97546-WH-CA | ☐ Yes ☒ No | $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 Division has reviewed the enclosed IRO decision and determined that the requestor **did not prevail** on the **majority** of the disputed medical necessity issues.

This AMENDED FINDINGS AND DECISION supersedes all previous Decisions rendered in this Medical Payment dispute involving the above requestor and respondent. The original decision was remanded due to the EOBs/TWCC-62s indicating that services "FROM" and "THROUGH" date ranges were denied based on peer reviews and these date ranges included the services that were reviewed as fee disputes on the original Findings and Decision.

## PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 and Rule 134.202(c)(1)

## PART VII: AMENDED DIVISION DECISION AND ORDER

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 entitled to additional reimbursement in the amount of $1,511.50. The Division finds that the requestor was not the prevailing party and is not entitled to a refund of the IRO fee. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 30 days of receipt of this Order.

**Amended Order by:**

| | | 12-14-05 |
|---|---|---|
| Authorized Signature | | Date of Amended Order |

## 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 amended 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 21, 2005**
**November 15, 2005**
June 9, 2004

TDI, Division of Workers' Compensation
Medical Dispute Resolution
Fax: (512) 804-4868

**CORRECTED REPORT**

Re: Medical Dispute Resolution
**Old MDR #: M5-04-1282-01**
**New MDR #: M5-04-1282-02**
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: IRO 5055

Dear Ms. ___:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him 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 Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in chiropractic, and is currently on the DWC Approved Doctor List.

Your Right To Appeal

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 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.

**REVIEWER'S REPORT**

**Information Provided for Review:**
DWC-60, Table of Disputed Services, EOB's
Information provided by Requestor: letter of medical necessity, office notes, progress notes, physical therapy notes, FCE, radiology report and designated doctor exam.

**Clinical History:**
The patient was initially injured on ___. He states that he lost consciousness and injured his neck. He reports that he went to the hospital on the day of the accident to the Emergency Room and was prescribed medication. He continued to have symptoms, and on 04/10/03 sought additional care.

Initial symptoms were that of neck pain rated a six on a scale from zero to ten, and right arm pain rated a nine on a scale from zero to ten. He also describes fatigue, nervousness, difficulty sleeping, and weakness of the right arm since the accident. His job description was that he was employed as a driver, and his daily job performance required him to sit for four hours and stand for six hours. There is no mention in the initial report as to his weight lifting restrictions or requirements.

Initial evaluation was performed, and this patient began an aggressive an intensive chiropractic manipulative therapy and passive therapy program, which progressed into an active therapy program. Over the course of treatment, diagnostic testing was performed, which reveals positive findings. In addition, the patient is 5 feet 7 inches in height and weighs 312 pounds. A functional capacity evaluation was performed on July 28, 2003, which revealed the patient's present physical demand level was medium/33 pounds.

**Disputed Services:**
Office visits, therapeutic exercises, work hardening-additional hours and **functional capacity exam** during the period of 06/19/03 through 09/12/03.

**Decision:**
The reviewer partially agrees with the determination of the insurance carrier. The office visits, therapeutic exercises and **functional capacity exam** during the period of 06/19/03 through 09/12/03 <u>were medically necessary</u>. However, the work hardening-additional hours during this period in dispute <u>was not medically necessary</u> in this case.

**Rationale:**
There is nothing in the remainder of the functional capacity exam report that would warrant the patient to undergo an intensive multidisciplinary program of work hardening. In fact, the patient's own neck disability index was essentially normal with only minimal significant responses. Given the intensive amount of passive as well as active therapy the patient had received, it was not clinically justified for this patient to enroll in a work-hardening program. After the findings of this functional capacity exam, this patient could have been released and returned to work restrictive duty utilizing the findings in the functional capacity evaluation test 4-6 hours per day in conjunction with a 2-4 hour per day work conditioning program in order to assist the patient with his de-conditioned status as well as transition back into a work force as he had been completely taken off of work for several months. This could have been accomplished within 2-4 weeks.

After the day of the functional capacity exam, the patient could have been released to full active duty and progressed into a home therapy program as needed. This would have, in fact, approximately coincided with the patient receiving a designated doctor evaluation on August 20, 2003 in which he was placed at maximum medical improvement and given a 7% whole person permanent impairment rating.

In conclusion, office visits, therapeutic exercises, and **functional capacity exam** during the period of 6/19/03 until 9/12/03 were, in fact, reasonable, usual, customary, and medically necessary for the treatment of this patient's on the job injury. However, work hardening-additional hours during the period of 6/19/03 through 9/12/03 were not medically necessary for the treatment of this patient's on the job injury.

Sincerely,

Gilbert Prud'homme
Secretary & General Counsel

GP:dd