

## MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

### Retrospective Medical Necessity Dispute

#### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> (X) HCP ( ) IE ( ) IC	<b>Response Timely Filed?</b> (X) Yes ( ) No
Requestor's Name and Address  Dr. Kris Wilson 101 W. Allen Avenue Ft. Worth, TX 76110	MDR Tracking No.: M5-05-2290-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address  Zurich American Insurance Company, Box 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

#### PART II: SUMMARY OF DISPUTE AND FINDINGS – MEDICAL NECESSITY ITEMS

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
11-5-03	12-19-03	CPT codes 98943, 99070, 97110, 97140, 97112, 97116, E1399, 99215	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
1-16-04	1-16-04	99215	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

#### PART III: 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 Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division 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 **prevailed** on the majority of the disputed medical necessity issues. The amount due the requestor for the medical necessity issues is \$2,841.47.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 7-13-05 the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

Per Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount as established by this rule or, (2) the health care provider's usual and customary charge).

All of the services from 11-5-03 through 12-19-03 which were not denied as medically unnecessary by the carrier were denied as "E – Entitlement to Benefits" or as "F – not timely submitted." In a BRC on 2-9-05 the parties agreed that the ankle injury is compensable. The diagnoses for the services in this dispute concern the ankle injury. Therefore, they are compensable. The requestor provided proof that these services had been submitted to the carrier in accordance with Rule 134.801. These services will be reviewed per Rule 134.202(c)(1) as follows:

CPT code 98943 – \$382.33 (\$29.41 X 13 DOS) The requestor submitted documentation per Rule 133.304 (i) (1-4).

HCPCS code E1399 – \$80.00 (\$16.00 X 5 DOS) The requestor submitted documentation per Rule 133.304 (i) (1-4).

CPT code 99070– \$195.00 (\$15.00 X 13 DOS) The requestor submitted documentation per Rule 133.304 (i) (1-4).

CPT code 97140 – \$781.20 (\$32.55 X 24 units)

CPT code 97116 -\$363.84 (\$30.29 X 12 dates of service)

CPT code 97112 -\$317.34 (\$35.26 X 9 dates of service)

CPT code – 99215 - \$143.78

HCPCS code E0745 - \$89.51. The requestor submitted documentation per Rule 133.304 (i) (1-4).

Regarding CPT code 97116 on 12-22-03, 12-30-03, 12-31-03, 1-5-04, 1-7-04, 1-9-04, 1-14-04 and 1-16-04: Per the 2002 MFG this service is considered to be a component of CPT code 97530 which was billed by the Requestor for this date of service. Recommend no reimbursement.

Regarding CPT code 97530 (6 units) on 12-22-03, 12-29-03, 12-30-03, 12-31-03, 1-5-04, 1-7-04, 1-9-04, 1-12-04, 1-14-04 and 1-16-04: Per the 2002 MFG this service is considered to be a component of CPT code 97140 which was billed by the Requestor for this date of service. Recommend no reimbursement.

CPT code 99070 on 12-22-03, 12-29-03, 12-30-03, 12-31-03, 1-5-04, 1-7-04, 1-9-04, 1-12-04, 1-14-04 and 1-16-04 was denied with denial code "N – not appropriately documented." The requestor provided documentation to support delivery of services per Rule 133.307(g)(3)(A-F). Recommend reimbursement of \$150.00 (\$15.00 X 10 DOS).

HCPCS Code E1399 (2 units) on 1-5-04 and 1-14-04 (1 unit) was denied by the carrier as "F". A "Recommended Allowance" was stated. However, the requestor states that no payment was received for these services. No payment exception code was given per Rule 133.304 (c). Recommend reimbursement of \$48.00 (\$16.00 X 3 units).

Regarding all services on 12-24-03 and CPT code 98943 on 12-29-03 12-30-03, 12-30-03, 1-5-04, 1-7-04, 1-9-04, 1-12-04, 1-14-04, 1-16-04, 1-14-04, 1-16-04: Neither the carrier nor the requestor provided EOB's. The requestor did not submit convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's per rule 133.307(e)(3)(B). Per Rule 133.307 (e)(2)(A) the requestor must send to the Commission a copy of all medical bills as originally submitted to the carrier for reconsideration in accordance with 133.304. Recommend no reimbursement.

CPT code 97140 (2 units) on 12-29-03 (2 units), 12-30-03 (2 units), 12-31-03 (1 unit), 1-5-04 (2 units), 1-7-04 (1 unit), 1-9-04 (1 unit), 1-12-04 (2 units), 1-14-04 (1 unit), and 1-16-04 (2 units) was denied by the carrier as "F". A "Recommended Allowance" was quoted. However, the requestor states that no payment was received for these services. No payment exception code was given per Rule 133.304 (c). Recommend reimbursement of \$554.35 (\$32.55 X 7 DOS for 2003 plus \$32.65 X 10 DOS for 2004).

CPT code 97112 on 12-29-03, 12-30-03, 12-31-03, 1-5-04, 1-7-04, 1-9-04, 1-12-04, 1-14-04, 1-16-04 was denied by the carrier as "F". A "Recommended Allowance" was quoted. However, the requestor states that no payment was received for these services. No payment exception code was given per Rule 133.304 (c). Recommend reimbursement of \$317.34 (\$35.26 X 9 DOS).

HCPCS code E0745 on 1-16-04 was denied by the carrier as "F". A "Recommended Allowance" was quoted. However, the requestor states that no payment was received for these services. No payment exception code was given per Rule 133.304 (c). Recommend reimbursement of \$111.89.

Regarding CPT code 97110: Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. Reimbursement not recommended.

**PART IV: COMMISSION DECISION AND ORDER**

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is entitled to a refund of the paid IRO fee in the amount of \$460.00. The Division hereby ORDERS the insurance carrier to remit the amount of \$6,376.05 plus all accrued interest due at the time of payment to the Requestor within 20-days of receipt of this Order.

Finding and Decision by:

Donna Auby

8-11-05

Ordered by:

Margaret Ojeda

8-11-05

Authorized Signature

Typed Name

Date of Order

**PART V: INSURANCE CARRIER DELIVERY CERTIFICATION**

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: \_\_\_\_\_ Date: \_\_\_\_\_

**PART VI: 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. Those who wish to appeal decisions that were issued during the month of August 2005, should be aware of changes to the appeals process which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas 78744 or faxed to 512-804-4011. A copy of this Decision should be attached to the request.

Beginning September 1, 2005, appeals of medical dispute resolution 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 decision that is the subject of the appeal is final and appealable.

Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

August 5, 2005

Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

Re: Medical Dispute Resolution  
MDR #: M5-05-2290-01  
TWCC#:  
Injured Employee: \_\_\_\_  
DOI: \_\_\_\_  
SS#: \_\_\_\_  
IRO Certificate No.: IRO 5055

Dear \_\_\_\_:

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 any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to 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 licensed in chiropractic, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme  
General Counsel

GP:thh

**REVIEWER'S REPORT**  
**M5-05-2290-01**

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**Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

Office notes 11/21/03 – 01/16/04

Physical therapy notes 10/27/03 – 01/16/04

Information provided by Pain Management Specialist:

Office notes 09/20/04 – 11/16/04

Procedure reports 07/07/04 – 09/08/04

Information provided by Orthopedic Surgeon:

Office notes 01/26/04 – 05/03/04

Nerve conduction study 04/28/04

**Clinical History:**

The records indicate the patient was injured on the job on \_\_\_\_ while drilling holes in a pipe when a large piece of metal machinery weighing approximately 100 pounds fell on his lower right leg, ankle, and foot, causing a puncture wound to the right lower leg and significant pain and swelling in the right lower leg, ankle, and foot. He was taken to the emergency room and was examined and x-rayed. No medications were prescribed. He was subsequently referred to the company doctor where he received some therapy. He continued to have ongoing problems that necessitated him to seek a TWCC-53 change of treating doctors. This was approved on 10/22/03

**Disputed Services:**

Chiropractic manipulation, supplies, therapeutic exercises, manual therapy technique, neuromuscular re-education, gait training miscellaneous DME, and office visits during the period of 11/05/03 thru 01/16/04.

**Decision:**

The reviewer partially disagrees with the determination of the insurance carrier and is of the opinion that the treatment and services in dispute as stated above were medically necessary from 11/05/03 through 12/19/03. The treatment and services in dispute as stated above after 12/19/03 through 01/16/04 were not medically necessary in this case.

**Rationale:**

As mentioned above, the records indicate that the patient was injured on the job on \_\_\_\_\_. He continued experiencing significant problems and requested change of treating doctors on 10/22/03. He was evaluated on 10/27/03 by his new treating doctor. There were sufficient subjective symptoms and objective findings to warrant an aggressive therapy program. National treatment guidelines allow for this type of treatment for this type of injury. For injuries of this nature, active therapy for 4-8 weeks is appropriate. Active therapy of up to 12 weeks as was performed in this case is outside the usual acceptable boundaries of the national treatment guidelines. There is sufficient clinical documentation as well as justification for this patient to receive all services rendered from 11/05/03 through 12/19/03. Services performed after 12/19/03 through 01/16/04 were not usual, reasonable, customary, or medically necessary for the treatment of this patient's on-the-job injury.