

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X)HCP ()IE ()IC	Response Timely Filed? () Yes (X) No
Requestor's Name and Address SCD Back and Joint Clinic, Ltd. 200 E 24 th Street Suite B Bryan, Texas 77803	MDR Tracking No.: M5-05-2418-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Liberty Mutual Fire Insurance Box 28	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: SUMMARY OF DISPUTE AND FINDINGS

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
05-10-04	05-10-04	99212-25, 97110 and 98941	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
05-10-04	05-10-04	97012, 97150 and 97124	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
05-14-04	05-14-04	99212-25 & 98941	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
05-18-04	05-18-04	97012, 97150, 97024 and 97124	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
05-18-04	05-18-04	99212-25, 97110 and 98941	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
05-19-04	05-19-04	97012, 97150 and 97124	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
05-19-04	05-25-04	97110 and 98941	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
05-21-04	05-25-04	99211-25	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
05-21-04	08-27-04	97150, 97124, 97024	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
05-25-04	08-27-04	97012	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
06-22-04	07-22-04	98941	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
05-27-04	08-27-04	99213, 99213-25 and 99212-25	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
08-27-04	08-27-04	98940	<input checked="" type="checkbox"/> Yes <input 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 disputed medical necessity issues. The amount of reimbursement due from the carrier for the medical necessity issues equals **\$1,827.37**.

CPT code 97750-MT date of service 05-14-04 and CPT code 97139-EU dates of service 05-18-04 and 08-27-04 were billed with invalid modifiers and will not be a part of the review.

Per Rule 133.308(e)(1) dates of service 05-06-04 and 05-07-04 were not timely filed and will not be a part of the review.

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 this amount and the appropriate amount for the services in dispute totaling \$1,827.37 consistent with the applicable fee guidelines, plus all accrued interest due at the time of payment, to the Requestor within 20-days of receipt of this Order.

Findings and Decision and Order by:

Authorized Signature

08-16-05

Date of Decision and 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.

Parker Healthcare Management Organization, Inc.

3719 N. Beltline Road, Irving, TX 75038

972.906.0603 972.255.9712 (fax)

Certificate # 5301

August 11, 2005

Amended August 15, 2005

**ATTN: Program Administrator
Texas Workers Compensation Commission**

Medical Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100

Austin, TX 78744

Delivered by fax: 512.804.4868

Notice of Determination

MDR TRACKING NUMBER: M5-05-2418-01

RE: Independent review for ____

The independent review for the patient named above has been completed.

- Parker Healthcare Management received notification of independent review on 6.22.05.
- Faxed request for provider records made on 6.22.05.
- TWCC issued an Order for Records on 7.15.05.
- The case was assigned to a reviewer on 8.1.05.
- The reviewer rendered a determination on 8.9.05.
- The Notice of Determination was sent on 8.11.05.
- The Amended Notice of Determination was sent on 8.15.05.

There are four pages included in this determination. The findings of the independent review are as follows:

Questions for Review

Medical necessity of the disputed services: Office visits (99212-25/99211-25, 99213-25), mechanical traction (97012), therapeutic exercises (97110), CMT 1-2 regions (98940), CMT 3-4 regions (98941), group therapeutic procedures (97150), massage (97124), diathermy (97024)

Dates in dispute: 5.10.04-8.27.04

Determination

PHMO, Inc. has performed an independent review of the proposed care to determine if the adverse determination was appropriate. After review of all medical records received from both parties involved, the PHMO, Inc. physician reviewer has determined to **overturn the denial** on the following services:

5.10.04- 99212-25, 97110, 98941
5.14.04- 99212-25, 98941
5.18.04- 99212-25, 97110, 98941
5.19.04 -97110, 98941
5.21.04- 99211-25, 97110, 98941
5.25.04- 99211-25, 97012, 97110, 98941
5.27.04- 99213-25
6.22.04- 99213-25, 97012, 98941
7.22.04- 99213-25, 98941
8.27.04- 99212-25, 97012, 98940

PHMO, Inc. physician reviewer has determined to **uphold the denial** of all services not specifically approved hereinbefore.

Summary of Clinical History

Mr. ___ suffered injuries on or about ___. He was apparently carrying a load when he tripped on some material and fell backwards. Reported injuries include a laceration to his head, concussion and sprains/strains to his cervical, thoracic and lumbar spine.

Care with the “company doctor” consisted of medication. The patient soon presented to John Wyatt, DC, who offered light duty, rehabilitation and spinal manipulation. The patient methodically progressed while under care. His protective restrictions were reduced over time.

ESIs were approved by the carrier to be performed on 3.29.04 and 6.4.04. The patient was diagnosed via MRI (1.04) with spondylolisthesis and spondylolysis at L4/L5.

Clinical Rationale

Review of the records and TWCC-73 forms indicate Dr. Wyatt promoted effective SAW/RTW (Stay at work / Return to work) measures. The patient did make gains in their workability and functional capacity throughout the first 2 months of care.

The patient did report ongoing symptoms that were not fully address by conservative means alone. Dr. Wyatt acted appropriately in referring the patient for more aggressive intervention when conservative care plateaued.

The Medical Narrative generated by Dr. Wyatt dated 5.27.04 did indicate mild loss of lumbar strength, mild improvement of lumbar AROM, and substantial improvement of cervical AROM.

Generally speaking, uncomplicated injuries associated with load-bearing falls would expect to reach resolution (or become permanent & stationary) in 2-3 months. However, the patient did have anterolisthesis at L4/L5 associated with spondylolysis. While this condition may not have been a consequence of the injury, this condition may reasonably expect to complicate and/or prolong care. Therefore, commonly referenced occupational disease guidelines (such as ODGs or ACEOM) regarding “soft tissue” injuries to the spine do not apply. More so, it has been my professional experience that spondylo patients generally do not recover as quickly as patients with unchanged spinal anatomy.

I also note the provider promoted SAW/RTW, and the patient appeared to continue to work. The patient was removed completely from work on 2 occasions around the time of his ESIs. Each period consisted of about 2 weeks. The patient was released back to full duty on 6.2.04

A surveillance video (discussed in the DD report) demonstrated the patient walking guardedly. The DD also opines that Mr. ___'s "descriptions appeared genuine and his efforts sincere," and he "observed no invalidating signs." Thus, as of 4.22.2004, the patient's injuries were deemed to be credible by the DD.

There was some correspondence between Dr. Wyatt and the DD following the evaluation. Dr. Wyatt references criteria that he believes indicate the patient was not at MMI at the date he was so certified. The DD responded – 6 weeks following his evaluation – by reaffirming his opinion. I think Dr. Wyatt more than half correct in this – especially since the patient was actively receiving injection therapy at the time MMI was issued. However, the criteria outlined for MMI sets the bar very high. While clinical MMI was probably reached somewhere in early June, I agree with the DDs comments regarding occasional use of post-MMI care to address exacerbations.

The patient's pain level generally hovered around a 3 – 4 during the period under dispute. The therapy immediately prior to the disputed dates and continuing through the dates indicate a gradual progression in the capabilities of the patient. The hand-written notes of various therapists effectively note the progress made on a day-by-day basis.

The volume of kinetics, massage, exercises, group activities, manipulations and group activities on any given date should be limited to 6-8 units, not including E&M services or spinal manipulation. Activities beyond this may realistically be accomplished with a home exercise program. Activities performed in a group setting 6 months post injury should be accomplished outside a clinical setting.

CPT is clear in that E&M visits should not be use in conjunction with CMT codes unless a distinct, separately identifiable service is performed that is not normally associated with the CMT. After a careful review of the daily notes, Dr. Wyatt clearly provides the additional services required by CPT. Therefore, the E&M visits are supported by documentation.

Clinical Criteria, Utilization Guidelines or other material referenced

- Texas Workers Compensation Commission: *Medicine Fee Guidelines*, 1996
- Work Loss Data Institute, *Official Disability Guidelines*, 2004 edition
- *American College of Environmental and Occupational Medicine*, 2004 edition.

The reviewer for this case is a doctor of chiropractic peer matched with the provider that rendered the care in dispute. The reviewer is engaged in the practice of chiropractic on a full-time basis.

The review was performed in accordance with Texas Insurance Code §21.58C and the rules of the Texas Workers Compensation Commission. In accordance with the act and the rules, the review is listed on the TWCC's list of approved providers, or has a temporary exemption. The review includes the determination and the clinical rationale to support the determination. Specific utilization review criteria or other treatment guidelines used in this review are referenced.

The reviewer signed a certification attesting that no known conflicts-of-interest exist between the reviewer and any of the providers or other parties associated with this case. The reviewer also attests that the review was performed without any bias for or against the patient, carrier, or other parties associated with this case.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the Decision and has a right to request a hearing. A request for hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk within 20 (twenty) days of your receipt of this decision (28 Tex. Admin. Code § 148.3). This Decision is deemed received by you 5 (five) days after it was mailed and the first working day after the date this Decision was placed in the carrier representative's box (28 Tex. Admin. Code § 102.5 (d)). A request for hearing should be sent to:

Chief Clerk of Proceeding/Appeals , P.O. Box 17787, Austin, Texas 78744 or faxed to (512) 804-4011. A copy of this Decision should be attached to the request. The party appealing the Division's Decision shall deliver a copy of this written request for a hearing to the opposing party involved in the dispute.

I hereby verify that a copy of this Findings and Decision was faxed to TWCC, Medical Dispute Resolution department applicable to Commission Rule 102.5 this 15^h day of August 2005. The TWCC Medical Dispute Resolution department will forward the determination to all parties involved in the case including the requestor, respondent and the injured worker. Per Commission Rule 102.5(d), the date received is deemed to be 5 (five) days from the date mailed and the first working day after the date this Decision was placed in the carrier representative's box.

Meredith Thomas
Administrator
Parker Healthcare Management Organization, Inc.

CC: Requestor
Respondent
Patient