

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) HCP () IE () IC	Response Timely Filed? (X) Yes () No
Requestor's Name and Address Dr. Derek Brunton 105 N. Rose St. #109 Escondido, CA 92027	MDR Tracking No.: MDR Tracking Number: M5-05-2496-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address El Paso ISD, Box 42	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: SUMMARY OF DISPUTE AND FINDINGS – MEDICAL NECESSITY ISSUES

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
5-17-04	7-29-04	97012	<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.

In accordance with Rule 133.308 (e), requests for medical dispute resolution are considered timely if they are filed with the division no later than one (1) year after the date(s) of service in dispute. The following date of service is not timely and is not eligible for this review: 5-12-04.

The Division has reviewed the enclosed IRO decision and determined that the requestor did **not** prevail on the disputed medical necessity issues.

In accordance with 134.202(b): for billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies. CPT code 99213-NP contains an invalid modifier. CPT code 97250 is invalid after 8-1-03. Neither of these codes will be reviewed nor reimbursed. An attempt was made to contact the Requestor regarding this issue. No response was received.

PART IV: COMMISSION DECISION

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

Donna Auby

8-2-05

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

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 a 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 Texas Administrative Code § 148.3). This Decision was mailed to the health care provider and placed in the Austin Representatives box on _____. This Decision is deemed received by you five days after it was mailed and the first working day after the date the Decision was placed in the Austin Representative's box (28 Texas Administrative Code § 102.5(d)). A request for a 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.

The party appealing the Division's Decision shall deliver a copy of their written request for a hearing to the opposing party involved in the dispute.

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

August 1, 2005

July 26, 2005

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

CORRECTED REPORT

Re: Medical Dispute Resolution
MDR #: M5-05-2496-01
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 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:dd

REVIEWER'S REPORT
M5-05-2496-01

Information Provided for Review:

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

Information provided by Requestor:

Office notes 09/09/02 – 07/14/04

Physical Therapy notes 12/11/04 – 07/29/04

Radiology reports 01/17/02 – 01/19/04

Information provided by Respondent:

Correspondence

Designated doctor review

Information provided by Orthopedic Surgeon:

Office notes 02/09/04 – 01/11/05

Information provided by Chiropractor (Heath):

Office notes 09/18/04 – 10/20/04

Information provided by Neurologist:

Office note 04/16/04

Clinical History:

Patient is a 26-year-old female choir instructor who, on ____, was standing on a four foot high riser while stapling a bulletin board when she took a step backwards, lost her balance and fell, landing onto her buttocks and tailbone. She did not report the incident until 1/14/02 because she kept thinking that the pain would go away. When it did not, she presented herself to a doctor of chiropractic who began chiropractic treatment and physical therapy modalities and procedures. An MRI was performed on 3/29/02 and it revealed disk dessication from L3-4, L4-5 and at L5-S1, protrusion at L3-4, right paracentral disk extrusion with moderate canal stenosis at L4-5, a right paracentral disk protrusion at L5-S1, and a small annular tear at L5-S1.

Disputed Services:

Mechanical traction (97012) during the period of **5/17/04** thru 07/29/04.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the mechanical traction in dispute during the period of 05/12/04 thru 07/29/04 was not medically necessary in this case.

Rationale:

First of all, the dates of service in dispute in this case occurred approximately 3 and one-half years following the date of injury. And, upon careful review of the medical records submitted, the types of services performed did not materially alter during that time, even in the absence of significant documented improvement.

Specifically, the treating doctor's "progress report" dated 1/8/04 (the last examination prior to the dates of service in question) recorded the patient's lumbar ranges of motion for flexion, extension, left lateral bending, right lateral bending, left rotation and right rotation at 90, 30, 20, 20, 30 and 30, respectfully, all in degrees. The next examination available in the medical records provided was performed on 7/14/04, and it recorded lumbar ranges of motion values with *the exact same values*, so a full 6 months of treatment yielded absolutely no objective functional improvement.

Second, in terms of documented relief from the care provided, on the "history of primary complaint" form dated 1/8/04, the numbers "7 8" were circled indicating "severity," and on the same form dated 7/14/04, the numbers "6 7 8" were circled. Therefore, 6 months of unchanging care also failed to materially relieve the patient's symptoms. As a result, the treatment in question failed to meet the statutory requirements¹ for medical necessity since the patient obtained no material relief, and the promotion of recovery was not accomplished.

Furthermore, the *Guidelines for Chiropractic Quality Assurance and Practice Parameters* 2 Chapter 8 under "Failure to Meet Treatment/Care Objectives" states, "After a maximum of two trial therapy series of manual procedures lasting up to two weeks each (four weeks total) without significant documented improvement, manual procedures may no longer be appropriate and alternative care should be considered." And, the ACOEM Guidelines³ state that if manipulation does not bring improvement in three to four weeks, it should be stopped and the patient reevaluated. In this case, after a full six months of providing the same services without "significant documented improvement," the medical necessity for the continued protocol was not supported as medically necessary.

¹ Texas Labor Code 408.021

² Haldeman, S; Chapman-Smith, D; Petersen, D *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Aspen Publishers, Inc.

³ ACOEM *Occupational Medicine Practice Guidelines: Evaluation and Management of Common Health Problems and Functional Recovery in Workers*, 2nd Edition, p. 299.