

# 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  Jack P. Mitchell, D.C. P.O. Box 9159 Longview, TX 75608-9159	MDR Tracking No.: M5-05-2636-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address  Federated Mutual Insurance Company, Box 01	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

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

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
5-26-04	3-4-05	CPT codes G0283, 98941, 97112, 97035, 97012, 97140, 99358	<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.

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(s) of service are not timely and are not eligible for this review: 5-19-04 – 5-21-04.

The Division has reviewed the enclosed IRO decision and determined that the requestor prevailed on the disputed medical necessity issues. The total amount due the Requestor for the medical necessity services is \$3,886.33.

Regarding CPT code 99214-MP: MP is not a valid modifier for this service per the 2002 MFG. This service will not be a part of this review.

Per the 2002 MFG CPT code CPT codes 99358 and 99371 are bundled codes. These services will not be reimbursed separately.

### 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 consistent with the applicable fee guidelines, totaling \$3,886.33, plus all accrued interest due at the time of payment, to the Requestor within 20-days of receipt of this Order.

Findings 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 9, 2005

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

Re: Medical Dispute Resolution  
MDR #: M5-05-2636-01  
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**  
**M5-05-2636-01**

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**Information Provided for Review:**

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

Information provided by Requestor:

Correspondence

Daily progress notes 04/07/04 – 03/08/05

FCE 06/03/04 – 10/13/04

Radiology reports 10/31/00 – 05/19/04

Information provided by Respondent:

Correspondence

Designated doctor reviews

Information provided by Orthopedic Surgeon:

Office notes 06/19/04 – 06/14/05

Nerve conduction study 03/25/05

Procedures 03/01/05

Information provided by Neurologist:

Office notes 02/26/01 – 06/26/03

Nerve conduction study 08/16/02

Procedures 02/26/02 – 02/14/03

**Clinical History:**

This male patient underwent diagnostic imaging, NCV, surgery and physical medicine treatments after sustaining injury at work on \_\_\_ when a low-speed, high-torque drill twisted in his hands while working overhead.

**Disputed Services:**

Electrical stimulation, chiropractic manipulation, neuromuscular re-education, ultrasound, mechanical traction, manual therapy technique and prolonged evaluation during the period of 05/26/04 thru 03/04/05

**Decision:**

The reviewer 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 in this case.

**Rationale:**

After various failed medical treatments and after being rated with a whole body impairment of 33% by the designated doctor, the claimant then consulted with a doctor of chiropractic.

Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. With documentation of improvement in the patient's condition and restoration of function, continued treatment may be reasonable and necessary to effect additional gains.

In this case, there is more than adequate documentation of objective and functional improvement in this patient's condition. Specifically, the medical records document that patient had objective and functional improvement from the time of the examination on 05/19/04 to the examination performed on 06/30/04. Moreover, the medical records document that patient had objective and functional improvement from the time of the examination on 06/30/04 to the examination performed on 08/13/04. Therefore, and without question, the medical records fully substantiate that the disputed services fulfilled the statutory requirements<sup>1</sup> for medical necessity since the patient obtained relief and promotion of recovery was accomplished.