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 Lonestar DME % George Hanford 1509 Falcon Drive Suite 106 Desoto, Texas 75115	MDR Tracking No.: M5-05-2744-01 TWCC No.: Injured Employee's Name:
Respondent's Name and Address Downs Stanford, PC, %Wendy Schrock, Box 17	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**		
2-27-05	**2-27-05**	**E0731, A4595**	☐ **Yes** ☒ **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 did **not** prevail on the disputed medical necessity issues.

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 reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

Authorized Signature	Typed Name	Date
	Donna Auby	8-17-05

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 15, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M5-05-2744-01
CLIENT TRACKING NUMBER: M5-05-2744-01/5278

Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIoA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA has performed an independent review of the case in question to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIoA for independent review.

Records Received:
Records received from state:
7 page Notification of IRO Assignment from TWCC dated 7/20/05
Records received from respondent:
1 page fax sheet from Downs and Stanford PC dated 7/26/05
1 page letter from Downs and Stanford PC dated 7/26/05
1 page letter from MRIoA dated 7/20/05
2 page letter from Downs and Stanford PC dated 7/6/05
1 page memo from TWCC dated 6/23/05
5 page medical dispute resolution (MDR) request/response form dated 6/17/05
5 page required medical examination (RME) report from Radie Perry MD dated 1/7/05
2 page RME addendum from Dr. Perry dated 1/7/05
1 page TWCC-73 Work Status Report from Dr. Perry dated 1/7/05
1 page peer review summary report dated 5/27/05
5 page peer review report from Phillip Osborne MD dated 5/27/05
Records received from requestor:
1 page retrospective review information request from MRIoA dated 7/20/05
1 page fax cover sheet from MRIoA dated 7/20/05
1 page memo from TWCC dated 7/20/05
1 page memo from TWCC dated 6/23/05
2 page letter of medical necessity dated 5/11/05
2 page EOB from Corvel dated 2/27/05
3 page MDR request/response form (undated)
2 page letter from Lonestar DME dated 6/13/05
1 page letter from Lonestar DME dated 5/12/05
1 page TX report from Lonestar DME dated 5/12/05
2 pages of HCFA-1500 forms dated 2/27/05
2 pages of letters of medical necessity dated 2/16/05 and 2/24/05

Summary of Treatment/Case History:
The patient, a 45-year-old female, was being treated by the chiropractor for post-concussion syndrome, cervical pain, and low back pain due to a slip and fall on ___. The patient was morbidly obese and she underwent gastric bypass surgery in November of 2004. She underwent a required medical evaluation with Radie Perry MD on 1/7/05 and she still weighed over 400 lbs. The neurological examination was

unremarkable and the patient was diagnosed with nonspecific neck and low back pain, no clinical findings of cervical or lumbar radiculopathy, and single level degenerative disc disease in the low back, and morbid obesity. She was also diagnosed with spinal sprain/strain and nothing of any more significance.

The patient was prescribed a form fitting conductive garment and additional electrical stimulator supplies by the chiropractor.
A subsequent peer review was done by Phillip Osborne MD on 5/27/05 and Dr. Osborne indicated the patient sustained a cervical and lumbar strain superimposed on pre-existing degenerative disc disease.

Questions for Review:
DOS Disputed: 2/27/05
1. Denied by carrier for medical necessity are DME - E0731 (form fitting conductive garment) and A4595 (electrical stimulator supplies). Are DME - E0731 (form fitting conductive garment) and A4595 (electrical stimulator supplies) medically necessary?

Explanation of Findings:
Question 1: Denied by carrier for medical necessity are DME - E0731 (form fitting conductive garment) and A4595 (electrical stimulator supplies). Are DME - E0731 (form fitting conductive garment) and A4595 (electrical stimulator supplies) medically necessary?

The DME - E0731 (form fitting conductive garment) and A4595 (electrical stimulator supplies) are not medically necessary. The use of electrical stimulation devices is not supported for treatment of nonspecific neck or lower back pain.

The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (eg, thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. (Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. Phys Ther. 2001;81:1641-1674).

The ACOEM Guidelines indicate that physical modalities such as massage, diathermy, cutaneous laser treatment, ultrasound, TENS units, percutaneous electrical nerve stimulation units and biofeedback have no proven efficacy in the treatment of lower back pain symptoms (ACOEM Guidelines – Low Back Pain, 2003)

The Philadelphia Panel indicated that for neck pain, therapeutic exercises were the only intervention with clinically important benefit. There was good agreement with this recommendation from practitioners (93%). For several interventions and indications (eg, thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. With respect to the use of TENS, the panel noted that there was good evidence that TENS did not show evidence of effect on pain and the Quebec Task Force noted that there was no evidence for the effectiveness of TENS with neck pain and the Philadelphia Panel was in agreement with the Quebec Task Force guidelines, which do not recommend TENS for neck pain. (Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Neck Pain. Phys Ther. 2001;81:1701-1717.)

Swenson conducted a survey of several therapeutic modalities, including physical modalities, thermal modalities, electrical modalities, exercise therapy, behavioral therapy, education, and laser therapy. Of these, exercise, mobilization, and manipulation have the greatest support in the literature, whereas thermal treatments (including therapeutic ultrasound), and electrical therapies (including TENS) have little evidence of effectiveness and no evidence for more than a transient benefit. There is a need for well-controlled studies of educational programs and behavioral interventions specifically for patients with chronic neck pain, particularly because these interventions are often employed as part of a multimodal treatment program. Low-power laser treatment and magnetic therapy require some well-controlled studies before they can be recommended to neck pain patients or discarded as worthless interventions. Cervical traction and soft collars seem to be generally ineffective for nonspecific neck pain (Swenson RS, “Therapeutic modalities in the management of nonspecific neck pain”, Phys Med Rehabil Clin N Am. 2003 Aug;14(3):605-27)

Milne et al conducted a systematic review to determine the efficacy of TENS in the treatment of chronic LBP. The study examined five trials comparing active TENS and placebo sham-TENS. There were no statistically significant differences between the active TENS group when compared to the placebo TENS group for any outcome measures. Subgroup analysis performed on TENS application and methodological quality did not demonstrate a significant statistical difference. The reviewers concluded that the results of the meta-analysis presented no evidence to support the use of TENS in the treatment of chronic low back pain. (Milne S, Welch V, Brosseau L, Saginur M, Shea B, Tugwell P, and Wells G. Transcutaneous electrical nerve stimulation (TENS) for chronic low back pain (Cochrane Review). Cochrane Database Syst Rev 2001;2:CD003008)

The European Guidelines for the Management of Acute Nonspecific Low Back Pain in Primary Care do not recommend TENS treatment for acute non-specific low back pain (Van Tulder, M, et al, “European Guidelines for the Management of Acute Nonspecific Low Back Pain in Primary Care”, COST B13 Working Group on Guidelines for the Management of Acute Low Back Pain in Primary Care, 2004).

Conclusion/Decision to Not Certify:
The DME - E0731 (form fitting conductive garment) and A4595 (electrical stimulator supplies) are not medically necessary.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:
Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. Phys Ther. 2001;81:1641-1674

References Used in Support of Decision:
ACOEM Guidelines – Low Back Pain, 2003

Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Neck Pain. Phys Ther. 2001;81:1701-1717

Swenson RS, "Therapeutic modalities in the management of nonspecific neck pain", Phys Med Rehabil Clin N Am. 2003 Aug;14(3):605-27

Milne S, Welch V, Brosseau L, Saginur M, Shea B, Tugwell P, and Wells G. Transcutaneous electrical nerve stimulation (TENS) for chronic low back pain (Cochrane Review). Cochrane Database Syst Rev 2001;2:CD003008

Van Tulder, M, et al, "European Guidelines for the Management of Acute Nonspecific Low Back Pain in Primary Care", COST B13 Working Group on Guidelines for the Management of Acute Low Back Pain in Primary Care, 2004

This review was provided by a Doctor of Chiropractic who is also a member of the American Chiropractic Academy of Neurology. This reviewer also holds a certification in Acupuncture. This reviewer has fulfilled both academic and clinical appointments and currently serves as an assistant professor at a state college, is in private practice and is a director of chiropractic services. This reviewer has previously served as a director, dean, instructor, assistant professor, and teaching assistant at a state college and was responsible for course studies consisting of pediatric and geriatric diagnosis, palpation, adjusting, physical therapy, case management, and chiropractic principles. This reviewer is responsible for multiple postgraduate seminars on various topics relating to chiropractics and has authored numerous publications. This reviewer has participated in numerous related professional activities including work groups, committees, consulting, national healthcare advisory committees, seminars, National Chiropractic Coalition, media appearances, and industrial consulting. This reviewer has been in practice since 1986.

MRIoA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIoA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIoA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIoA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIoA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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