

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: () HCP (X) IE () IC	Response Timely Filed? (X) Yes () No
Requestor's Name and Address	MDR Tracking No.: M5-05-2765-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Fidelity and Guaranty Insurance, Box 19	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?
6-1-04, 7-3-04, 8-2-04, 8-30-04	Hydrocodone/APAP	<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 did **not** prevail on the disputed medical necessity issues.

Ombudsman Assistance: An unrepresented injured worker may be assisted by a Commission Ombudsman at the State Office of Administrative Hearings. To request Ombudsman assistance please call 512.804.4176 or 1.800.372.7713 ext 4176.

Asistencia por parte del Ombudsman: Un trabajador lesionado puede obtener asistencia por parte de un Ombudsman de la Comision en un procedimiento ante la Oficina Estatal de Audiencias Administrativas (sigla SOAH). Para pedir asistencia de un Ombudsman, favor de llamar a 512.804.4176 o al 1.800.372.7713.

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.

Findings and Decision by:

Authorized Signature

Donna Auby

Typed Name

8-26-05

Date

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 25, 2005

TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT: ____

EMPLOYEE: ____

POLICY: M5-05-2765-01

CLIENT TRACKING NUMBER: M5-05-2765-01/5278

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 TWCC:

- TWCC Notification of IRO Assignment, 07/18/05
- Letter to MRIoA from TWCC, 07/18/05
- TWCC-60 Medical Dispute Resolution Request/Response form
- Letter to TWCC from Flahive, Ogden & Latson, 05/16/05

Records received from Jack McCarty, DO:

- TWCC-49 TWCC Request for prospective review of medical care not requiring preauthorization
- Progress notes, Dr. McCarty, 7/02 to 5/04
- Letter to patient from Cambridge Integrated Services, 10/27/04
- MRI of the L-Spine, 09/17/02
- X-ray, 08/06/02
- Letter from Dr. McCarty, 01/10/03
- TWCC-53 Information for request to change treating doctors
- TWCC-53 Employee's request to change treating doctors, 06/24/02
- HealthSouth, Therapy Referral, 05/31/02
- Office notes, Covenant HealthPlus, 04/22/02-06/11/02
- Progress notes, HealthSouth, 04/08/02
- Letter to Dr. McCarty from the Law Offices of Miller, Henderson & Bicklein, 11/07/02
- Authorization for release of information to the Law Offices of Miller, Henderson & Bicklein, 11/07/02
- Covenant HealthPlus Workers' Compensation Authorization for Medical Services, 04/22/02
- Peer Review, 03/29/04
- Letter to TWCC from Dr. McCarty, 06/24/04
- Letter to Dr. McCarty from TWCC, 06/1/04
- Letter to Dr. McCarty from Cambridge Integrated Services Group, Inc., 05/25/04 (with copy of Peer Review from 03/29/04 attached)
- Referral to from Dr. McCarty, 11/04/03
- Texas Worker's Compensation Work Status Reports, Dr. McCarty, 08/01/02-05/13/04
- Letter to Dr. McCarty from Dr. Baldwin, 03/13/03
- Progress note, Dr. Hagstrom, date?
- Operative note, Dr. Hagstrom, 01/16/03
- Texas Worker's Compensation Work Status Reports, Dr. Weber, 02/20/03
- Letter to Dr. McCarty from, TWCC 08/14/02
- Health insurance claim forms from Dr. McCarty, 07/31/02-05/13/04
- Walgreens Prescription Refill Request, 12/05/04, 11/01/04, 08/29/04, 08/03/04, 06/24/04, 09/04/02, 09/03/02, 08/30/02, 07/22/02, 08/16/02, 08/06/02
- Letter to Dr. McCarty from the Law Offices of Miller, Henderson & Bicklein, 07/19/04
- TWCC-49 Request for prospective review of medical care not requiring preauthorization
- Required Medical Examination, Dr. Hill, 08/05/04
- TWCC-22 Required medical examination notice or request for order

- Letter to Cambridge Integrated Services from Dr. Zigler, 12/23/03
- Fax cover sheet to Dr. McCarty's office from Pain Management Services, 10/30/03
- Letter to Dr. McCarty from Dr. Hagstrom, 10/23/03
- Progress note, Dr. Hagstrom, 03/18-09/16/03
- Denial letter to Dr. Hagstrom from Cambridge Integrated Group, 06/09/03
- Operative note, Dr. Hagstrom, 04/17/03
- Required Medical Examination, Dr. Weber, 02/20/03
- Fax coversheet to Dr. McCarty from Dr. Weber's office, 02/26/03
- Fax coversheet from Pain Management Services, 01/23/03
- Authorization for Treatment, 10/25/02, 12/10/02
- Letter to Dr. McCarty from TWCC, 01/30/03
- Instructions to patient for procedure (10/24/02), Dr. Hagstrom
- Precert Request form for procedure (10/24/02), Dr. Hagstrom, 10/22/02
- Fax coversheet to Dr. Hagstrom from Cambridge Integrated Services, 10/28/02
- Instructions to patient for procedures (12/12/02, 12/19/02), Dr. Hagstrom
- Precert Request form for procedure (12/12/02, 12/19/02), Dr. Hagstrom, 12/03/02
- Authorization of Workers Compensation Request, 12/04/02 x2
- Precert Request form for procedure (12/12/02), Dr. Hagstrom, 12/05/02
- Precert Request form for procedure (01/16/03), Dr. Hagstrom, 01/09/03
- Superbills, Caprock Medical Associates, P.A., 07/31/02-05/13/04

Summary of Treatment/Case History:

The patient is a 54 year old female with DOI ___ in which she fell on her buttocks on a bus step. An x-ray in 8/02 showed facet arthrosis and DDD. An MRI of 9/02 showed the same and a bulge at L5/S1. An EMG of 11/02 was normal. Despite a normal PE, an ESI, SI, facet injections and PT were done in 2002 and failed to help; despite this, the SI injections were repeated in 2003. She has comorbid problems of morbid obesity at 5'4" and 284 lbs, diabetes, and renal failure requiring dialysis. As of 6/02 she had been hospitalized for a renal biopsy and was discharged on lortab and skelaxin. There is a question of a WC related coccygeal fracture, but the initial x-ray/MRI of 8/02 dispute this. The note of 5/15/02 states PT is "mystified" by the lack of progress and "she does not have signs of anything specific". A note in 4/02 after the DOI indicates she has pain from her coccyx to her head. An IME of 3/04 notes that her radiologic findings were due to pre-existing degenerative changes, her pain was due to her morbid obesity, and no further treatment or testing is needed. Her treating MD feels otherwise. She was declared nonsurgical. The patient has been prescribed hydrocodone APAP since her DOI, over 3 years ago. An IME in 8/04 and 2/03 felt the fall exacerbated her underlying problems but did cause her back pain.

Questions for Review:

1. Is hydrocodone APAP necessary for 06/01/04, 07/03/04, 08/02/04 and 08/30/04?

Explanation of Findings:

The patient has a diagnosis of lumbar pain after a fall. She also has comorbid problems of severe obesity, renal failure, diabetes. Multiple injections failed to help. She has taken hydrocodone APAP since her DOI. There are multiple IMEs indicating that although she has a complicated medical history, her back pain did not begin until her DOI. It appears the DOI exacerbated her underlying DDD and back instability due to her years of age and obesity. There are no notes submitted for the DOS in question. The patient has been taking hydrocodone APAP for years. Although her ongoing back pain may be related to the DOI in some way, there is no documentation the patient requires this medication for continued treatment of her back pain.

Conclusion/Decision to Not Certify:

Decision to not certify as medically necessary the hydrocodone APAP for DOS in question.

Applicable Clinical or Scientific Criteria or Guidelines Applied in Arriving at Decision:

Criteria used are common practice among osteopathic and pain physicians.

References Used in Support of Decision:

1. Bonica's Management of Pain, third edition copyright '00.

The physician providing this review is board certified in Anesthesiology and is a doctor of Osteopathy. The reviewer is currently an attending physician at a major medical center providing anesthesia and pain management services. The reviewer has participated in undergraduate and graduate research. The reviewer has been in active practice since 1988.

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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