

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 Jaime J.Rivera, D.C. 1642 E Price Road # 103 Brownsville, Texas 78521	MDR Tracking No.: M5-05-2790-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Box 29	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		
07-19-04	07-21-04	98940, 97124-59, 97530-GP, 97012-GP	<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.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 07-21-2005, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 99456-WP-V3 date of service 07-21-04 denied with denial code "V" (unnecessary treatment with peer review). This service is a required report per Rule 134.202(6)(C)(II). The requestor provided documentation to support the services billed. Reimbursement is recommended in the amount of **\$215.00**.

PART IV: COMMISSION DECISION

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is entitled to reimbursement for the fee services involved in this dispute in the amount of \$215.00 and is not entitled to a refund of the paid IRO fee. 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, 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

Date of Decision

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.



7600 Chevy Chase, Suite 400
Austin, Texas 78752
Phone: (512) 371-8100
Fax: (800) 580-3123

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 11, 2005

To The Attention Of: TWCC
7551 Metro Center Drive, Suite 100, MS-48
Austin, TX 78744-16091

RE: Injured Worker: _____
MDR Tracking #: M5-05-2790-01
IRO Certificate #: IRO 5263

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the

adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Office notes dated 5/19/04 through 7/20/04
- Impairment rating report dated 7/21/04
- Peer review dated 7/24/04 by Timothy Fahey, D.C.
- Rebuttal to peer review dated 7/21/04 by Jaime Rivera, D.C.

Submitted by Respondent:

- TWCC-1 dated
- Office notes dated 5/19/04 through 7/21/04
- TWCC-69 and report dated 7/21/04 by Jaime Rivera, D.C.
- Peer review dated 7/24/04 by Timothy Fahey, D.C.

Clinical History

Records received indicate that the claimant injured her low back on ___ while working as a food service attendant at the _____. Her injury appears to have occurred as she was carrying boxes of frozen pizza. Specifically, her pain began while lifting a box while left laterally flexed and bending and then placing the box down towards her right while laterally bending and flexing.

The claimant initially saw Dr. Rivera on _____. Initial diagnoses included lumbar facet syndrome, unspecified curvature of the spine, spasm of muscle, unspecified arthropathy, and lumbar disc degeneration. Radiograph reports suggested a left lateral curvature of approximately 10° with apex at the L3 segment, decreased L5/S1 intervertebral disc space with associated degenerative changes, a left femoral head deficiency of 9mm and mild osteopenia. The claimant described her pain as sharp and stabbing into the left lower lumbar region with radiation of pain into the left sacroiliac region. She also reported pain on the right with less intensity. The claimant did not miss any work as a result of her injury but it appears there were limitations as a result of her condition and she was unable to lift more than 10 pounds. She also stated that she performed other tasks expected by her employer that did not relate to food service to include janitorial work.

Requested Service(s)

Chiropractic manipulations, therapeutic massage, therapeutic activities, and mechanical traction for dates of service 7/19/04 to 7/21/04.

Decision

I agree with the carrier and find that the services in dispute were not medically necessary.

Rationale/Basis for Decision

It appears the claimant responded well overall to treatment with progressive general relief of symptoms, as noted in Dr. Rivera's daily records. There was no mention of acute recurring flare-ups or complicating factors in the claimant's progress. She denied any previous episodes or history of low back pain. What proved remarkable was the claimant showed marked improvement throughout her treatment but continued to participate in multiple forms of therapy to include interferential, massage, mechanical traction, ultrasound, and muscular re-education. Records reviewed indicate that the emphasis of treatment by Dr. Rivera consisted of adjustments, manual therapy and the above mentioned therapeutics. Over the course of approximately 8 weeks of treatment, the claimant participated in 20 office visits for her injuries.

The nature of the claimant's injury on ___ seems mild or mild to moderate. The claimant continued to work that day and missed no work with slight moderation in work activities in days to follow. Dr. Rivera's notes did not indicate any complicating factors and dates of treatment show a lapse from 6/4/04 to 6/25/05. In a simple lumbar sprain/strain resulting in lumbar facet syndrome, without disc involvement or radiating sciatic neuralgia, multiple studies indicate a 4-8 week treatment program to be reasonable and necessary. It is my opinion, based on the documentation received and reviewed, and accepted protocols for injuries as described above, the treatment in dispute was not medically necessary.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 11th day of August 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder