



Texas Department of Insurance, Division of Workers' Compensation  
 7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

## MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

### Retrospective Medical Necessity and Fee Dispute

#### PART I: GENERAL INFORMATION

|  |                                 |
|--|---------------------------------|
| <b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier                              |                                 |
| Requestor's Name and Address:<br>Northwest Chiropractic & Rehab<br>2351 W. Northwest Highway # 1130<br>Dallas, Texas 75220 | MDR Tracking No.: M5-05-2854-01 |
|  | Claim No.:                      |
|  | Injured Employee's Name:        |
| Respondent's Name and Address:<br>Royal Insurance Company of America<br>Box 11   | Date of Injury:                 |
|  | Employer's Name:                |
|  | Insurance Carrier's No.:        |

#### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: TWCC-60, explanation of benefits, CMS 1500s and medical documentation.

#### PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

No response submitted.

#### PART IV: SUMMARY OF DISPUTE AND FINDINGS

| Date(s) of Service  | CPT Code(s) or Description                                       | Medically Necessary?  | Additional Amount Due (if any)  |
|---|--|---|---|
| 07-27-04, 09-02-04, 09-30-04, 11-04-04, 11-29-04, 01-04-05 and 01-24-05 | 99213 (7 DOS)  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | \$477.82<br>(\$68.24 X 5 DOS<br>2004 = \$341.20<br>and<br>\$68.31 X 2 DOS<br>2005 = \$136.62)   |
| 07-26-04 through 11-29-04   | 97530 (4 units each DOS) (29 DOS)                                | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | \$4,359.28<br>(\$30.06 X 125% =<br>\$37.58 X 4 units =<br>\$150.32 X 29 DOS)  |
| 12-06-04 through 01-19-05   | 97110 (4 units)(11 DOS)  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | \$1,607.16<br>(\$29.59 X 125% =<br>\$36.99 X 4 units =<br>\$147.96 X 5 DOS<br>2004<br>and<br>\$28.91 X 125% =<br>\$36.14 X 4 units =<br>\$144.56 X 6 DOS<br>2005) |
| 07-26-04 through 03-16-05   | 99214, 97150, 97535, 99361, 99080, 97140, 97032, 97010 and 99199 | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |   |
| 12-06-04 through 03-16-05   | 97530  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |   |
| 07-26-04 through 03-06-05   | 99213 (with exception of dates above)                            | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |   |

01-24-05 through  
03-06-05

97110

Yes  No

**PART V: 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 Division Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), Medical Dispute Resolution 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 **majority** of disputed medical necessity issues. The amount due from the carrier for the medical necessity issues equals **\$6,444.26**.

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 Medical Dispute Resolution.

On 07-26-05, 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 codes 97122, 97250 and 97265 listed on the table of disputed services are invalid codes and will not be a part of the review.

CPT code 99080-73 dates of service 01-06-05 and 02-09-05 denied with denial code -V- (unnecessary treatment with peer review). Per Rule 129.5 this is a required report which is not subject to an IRO review. The Medical Review Division has jurisdiction. Reimbursement is recommended in the amount of **\$30.00**. A Compliance and Practices referral will be made.

CPT code 99455 date of service 02-09-05 denied with denial code -V - (unnecessary treatment with peer review). This is a required report which is not subject to an IRO review per Rule 134.202(E)(6)(B)(iii). Reimbursement is recommended in the amount of **\$50.00**.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 133.308, Rule 129.5, Rule 134.202(E)(b)(B)(iii)

**PART VII: DIVISION DECISION AND ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. 413.031, the Division has determined that the requestor is entitled to additional reimbursement. The Division finds that the requestor was not the prevailing party and is not entitled to a refund of the IRO fee. The Division hereby **ORDERS** the insurance carrier to remit \$6,524.26 plus all accrued interest due at the time of payment to the Requestor within 30 days of receipt of this Order.

Findings and Decision by:

\_\_\_\_\_  
Authorized Signature

09-22-05

\_\_\_\_\_  
Date of Findings and Decision

Order by:

\_\_\_\_\_  
Authorized Signature

09-22-05

\_\_\_\_\_  
Date of Order

**PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW**

Appeals of medical dispute resolution decisions and 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. The Division is not considered a party to the appeal.

Si prefiere hablar con una persona en 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 23, 2005

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

**RE: Injured Worker:** \_\_\_\_\_  
**MDR Tracking #:** M5-05-2854-01  
**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:**

- Statement letter from the treating doctor
- Multiple TWCC hearing reports
- Designated doctor reports
- Letter of medical necessity
  
- EMG/NCV reports

- MRI reports
- Table of disputed services

### **Submitted by Respondent:**

- None

### **Clinical History**

According to the supplied documentation, the claimant sustained an injury while at work while falling backwards out of a chair sustaining an injury to her lumbar spine. On 3/17/03 the claimant had plain film x-rays performed of the lumbar spine that revealed bilateral spondylolysis at L5/S1 with 20% anterolisthesis present at L5/S1. An MRI was performed on 4/7/03 that revealed a 2mm L4/5 symmetric disc bulge and a 4mm L5/S1 disc bulge and a grade I spondylolisthesis with 8mm anterior displacement of L5 on S1. An EMG/NCV study was performed on 4/21/03 that revealed bilateral peroneal motor neuropathy. Chiropractic therapies were performed including active and passive modalities. On 10/15/03 the claimant was seen by Harold Marshall, M.D. for a designated doctor evaluation. Dr. Marshall reported the claimant was not at MMI and should continue physical therapy with possible facet joint injections and/or epidural steroid injections.

On 6/21/04 the claimant was seen again by Dr. Marshall for a designated doctor evaluation who reported the claimant was not at MMI and should continue to benefit from additional work hardening for 2-4 weeks. On 10/6/04 the claimant was seen by Dr. Marshall for a third designated doctor evaluation who continued to report the claimant was not at MMI and would continue to benefit from additional work hardening for 2-4 weeks. Dr. Marshall reported the claimant should reach MMI in approximately 3 months (1/6/05).

On 1/20/05 Howard H. Hood, M.D. performed a designated doctor exam on the claimant and reported that she was at MMI with a 10% whole person impairment rating. The documentation ends here.

### **Requested Service(s)**

99213, 99214 – office visits, 97535 – self care management training, 97530 – therapeutic activities, 97150 – group therapeutic procedures, 99361 – medical conference by physician, 99080 – special reports, 97140 – manual therapy technique, 97032 – electrical stimulation, 97010 – hot/cold ice packs, 97110 – therapeutic exercises, 99199 – special service, and 97112 – neuromuscular re-education for dates of service 7/26/04 to 3/16/05. Do not review CPT codes 97265, 99080-73, 97122, or 97250.

### **Decision**

I disagree with the insurance carrier and find that the office visits dated 7/27/04, 9/2/04, 9/30/04, 11/4/04, 11/29/04, 1/4/05 and 1/24/05 CPT code 99213 were medically necessary. I disagree with the insurance carrier that the therapeutic activities (97530) maximum of 4 units dated between 7/26/04 through 11/29/04 and therapeutic exercises (97110) maximum of 4 units dated 12/6/04 through 1/19/05 were also medically necessary. I agree with the insurance carrier that the remainder of the services in dispute were not medically necessary.

### **Rationale/Basis for Decision**

According to the supplied documentation, the claimant sustained a compensable injury to her lumbar spine on \_\_\_ when she fell out of a chair. The claimant underwent various medications and therapies prior to the dates of service in question. According to the designated doctor findings by Dr. Marshall, the claimant would benefit from additional therapeutic

activities/work hardening protocols, therefore, justifying the 97530/97110 CPT codes. The documentation supplied did not

provide daily sheets or therapeutic exercise sheets for the dates of service in question and after the amount of time that had passed between the dates of service in question and the compensable work injury, only 4 units appear reasonable and medically necessary to treat the ongoing symptoms. Since the chiropractor was the treating physician in this case, monthly office visits (maximum of 99213) on the dates listed above appear reasonable to document the claimant's progress and to refer as necessary. The remainder of the care submitted for review in the table was not objectively supported and is not seen as reasonable to treat the compensable injury to the claimant's lumbar spine.

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 23<sup>rd</sup> day of August 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder