



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: Pain & Recovery Clinic, North 6660 Airline Drive Houston, Texas 77076	MDR Tracking No.: M5-05-2867-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Texas Mutual Insurance Company Box 54	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

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

As our fees for services provided have been properly coded, billed, and submitted, and as we have followed all laws and rules as provided by the Texas Labor Code and the Texas Workers' Compensation Act in effect at the time the services were provided, we are entitled to fair and reasonable reimbursement.

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

This dispute involves the carrier's payment for date of service 7-1-2004 to 8-30-2004. The requester billed \$1,620.57; Texas Mutual paid \$0.00. The requester believes it is entitled to an additional of \$1,620.57.

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
07-01-04 to 08-30-04	97110, 97140, 97112, 97032 and 99212	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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 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 Medical Dispute Resolution.

Review of CPT code 97140 (2 units) date of service 07-16-04 revealed that neither party submitted a copy of an EOB. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for an EOB. Reimbursement per Rule 134.202(c)(1) is \$67.82, however, the requestor billed **\$67.80** and therefore this is the amount recommended for reimbursement.

CPT code 99212 date of service 08-04-04 denied with denial code -N- (not documented). The requestor submitted documentation to support the services provided per Rule 133.307(g)(3)(A-F). Reimbursement is recommended per Rule 134.202(c)(1) in the amount of **\$48.03**.

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

28 Texas Administrative Code Sec. 133.308, Rule 133.307(e)(2)(B), Rule 133.307(g)(3)(A-F) and Rule 134.202(c)(1)

**PART VII: DIVISION DECISION**

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 reimbursement in the amount of \$115.83. The Division finds that the requestor did not prevail on the majority of issues and is not entitled to a refund of the IRO fee. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 30 days of receipt of this Order.

Findings and Decision and Order by:

09/15/05

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

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Date of Decision and 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.**

**MEDICAL REVIEW OF TEXAS**

[IRO #5259]

3402 Vanshire Drive

Austin, Texas 78738

Phone: 512-402-1400

FAX: 512-402-1012

**NOTICE OF INDEPENDENT REVIEW DETERMINATION**

TWCC Case Number:	
MDR Tracking Number:	M5-05-2867-01
Name of Patient:	
Name of URA/Payer:	Pain & Recovery Clinic
Name of Provider:	Pain & Recovery Clinic
(ER, Hospital, or Other Facility)	
Name of Physician:	Dean McMillan, MD
(Treating or Requesting)	

September 6, 2005

An independent review of the above-referenced case has been completed by a medical physician board certified in physical medicine and rehabilitation. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: Texas Workers Compensation Commission

#### CLINICAL HISTORY

Records submitted for review included:

- Records from Pain & Recovery Clinic including Table of Disputed Services; Statement of Medical Necessity and Fee Issues; Medical Records [Methodist Willowbrook Hospital; W. David McChesney, MD; Cy-Fair Bone & Joint; Pain & Recovery Clinic; North Houston Imaging Center; Lubor Jarolimek, MD; Michele Zamora, M.Ed.; Houston Hand Clinic; Jacob Varon, MD; Lone Star Evaluations; David Poindexter, MD; Texas Electrophysiology Services); and
- Records from Texas Mutual Insurance including carrier's statement of disputed services; medical records (W. David McChesney, MD; Stanley Handel, MD; Pain & Recovery Clinic; Lubor Jarolimek, MD; Jacob Varon, MD; Lone Star Evaluations).

This is a lady who sustained a slip and fall on or about \_\_\_\_\_. She was evaluated in the ER, her left upper extremity was splinted and no fractures were identified. At the time of the orthopedist evaluation, there was a question of a possible ulna fracture. There was objectification of degenerative changes in the elbow and spine. Follow-up radiographs noted a healing minimal non-displaced ulna fracture. Range of motion testing was started as the rehabilitation protocol. A wrist ligament lesion was identified. However, the complaints far exceeded the physical findings. Nine months after the injury a depression was added to the problem list. Also at the time Dipti Patel, D.C. established a new treatment protocol of cryotherapy, electrical stimulation, ultrasound, manual therapy, range of motion and stretching to include nerve gliding exercises. A psychological evaluation responded with an adjustment disorder and anxiety. In July a non-physician (M. Sabbahi, P.T.) conducted an ERMG and made a C8 nerve root diagnosis. Dr. Varon added a trigger finger diagnosis as a result of the fall. A physician driven EMG noted no evidence of radiculopathy or upper extremity compromise.

#### REQUESTED SERVICE(S)

Multiple dates of therapeutic services 97110, 97140, 99212, 97112 and 97032 for dates of service 7/1/04 through 8/30/04.

#### DECISION

Denied.

### RATIONALE/BASIS FOR DECISION

There was no clinical indication for any of the services rendered. This is a lady who fell and sustained a contusion. From the outset she had complaints far in excess of the objective physical findings. As noted by the physical examination of Dr. Kessler on March 3, 2004 there was no findings. No laxity, swelling, motor strength loss, etc. As noted by Weisel & Delahay in Principals of Orthopedic Medicine and Surgery; also as by Brinker in Fundamentals of Orthopedics and Corrigan the treatment for these types of injuries is to rest for a day or two and then begin active rehabilitation. Regarding the use of electrical stimulation, as noted in the Philadelphia Panel Study this is limited to the acute phase of injury. To do so nine months after the date of injury is not usual standard of care. There was no clinical data presented that there was a loss of range of motion or any reason why. Based on the EMG completed by a physician versus the one completed by the physical therapist, there were no findings of any neurologic disorder that would warrant treatment. While chasing the complaints of this lady, the enabling behaviors of the requestor only added to a difficult case. Pain complaints have to be combined with objective data in order to establish a proper treatment plan. The initial medical report signed by Dr. McMillan noted as a diagnosis of lateral epicondylitis and internal derangement right wrist. Again using the test's referenced above, the treatment is in the initial phase and not nine months later. Given that Dr. McMillan did not prescribe non-steroidal, anti-inflammatory medications clearly indicates that this was not an acute problem and acute treatments would not be warranted.