



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:	MDR Tracking No.: M5-05-3003-01
Kenneth G. Berliner, M.D. 15769 North Freeway Houston, TX 77090	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
TPS Joint Self Ins Funds, Box 42	Employer's Name:
	Insurance Carrier's No.:

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

Documents included TWCC 60 form, Explanations of Benefits, peer review and CMS 1500's. The Requestor states, "The treatments the patient has been receiving have been directed towards treating the painful effects naturally occurring from her work injury. The treatment is still medically necessary."

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

"Please direct all future correspondence regarding this Medical Dispute to the undersigned."

#### PART IV: SUMMARY OF DISPUTE AND FINDINGS - Medical Necessity Services

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
12-20-04	CPT codes 99213, 20610, J0702, A4209, 73560	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$243.99
12-20-04	CPT code 99080	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	-0-

#### 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 prevail on the majority of the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is \$243.99.

Based on review of the disputed issues within the request, the 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 8-19-05 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.

The carrier denied CPT Code 99080-73 on 12-20-04 with a "V" for unnecessary medical treatment based on a peer review; however, the TWCC-73 is a required report per Rule 129.5 and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter; Recommend reimbursement of \$15.00.

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

28 Texas Administrative Code Sec. 133.308, 134.202(c)(1) and 129.5.

**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 parties are instructed to review the IRO decision and take appropriate action. The carrier must refund the amount of the IRO fee within to the requestor within 30 days of receipt of this 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 in the amount of \$258.99. 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:

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

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

9-20-05  
\_\_\_\_\_  
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.**



Specialty Independent Review Organization, Inc.

September 1, 2005

TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-05-3003-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered 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.

This case was reviewed by a licensed Doctor of Osteopathy with a specialty in Orthopedics. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

This 47 year old female injured her low back and left knee related to folding tables and chairs and folding walls at work on \_\_\_\_.

The patient had physical therapy, TENS unit, massage, ultra-sound, and injections. The patient underwent a left knee arthroscopy, partial medial meniscectomy, and chondroplasty of the patella and a lateral retinacular release on 08/29/2003.

The patient progressed satisfactorily post-operatively and was last seen by the provider on 10/2003. The patient returned 14 months later on 12/20/2004. On that date the patient complains of pain and swelling in her knee. The physical examination revealed crepitus and effusion. Patient also had tenderness on the medial joint line. X-rays on that date revealed mild medial joint space narrowing. Because of the effusion an arthrocentesis of the knee was carried out with installation of local anesthetic and cortisone.

#### RECORDS REVIEWED

Records from Carrier:

Harris & Harris Attorneys, Letter – 08/25/2005.

Records from Doctor & Facility:

Texas Political Subdivision – EOB, no date.

B Buck MD, Report – 07/28/2004.

Insurance Claim – 03/10/2005.

K Berliner MD, Reports – 10/06/2003 through 03/14/2005.

Texas Work Comp Work Status – 12/20/2004.

M Yezak DC, Reports – 04/06/2004 through 05/27/2005.

G Bricken PhD, Reports – 11/09/2004 through 05/02/2005.

S Alianell MD, Report – 10/25/2004.  
Vista Medical Center, OP Notes – 06/11/2004, 08/29/2003, 08/30/2003.  
B Payan MD, Report – 06/24/2003.  
J Reyes MD, Reports – 12/09/2003 through 12/11/2003.  
North Houston Imaging, MRI – 07/03/2003.  
FCE – 10/24/2003.  
Spine Rehab Reports – 10/16 through 11/10/2003.  
J Avilo MD, Reports – 01/13/2004 through 05/10/2005.  
Global Medical, EMG – 03/23/2004.  
Chronic Pain Reports – 05/13 through 06/16/2005.  
River Oaks, Myelogram – 01/22/2004.  
American Society of Anesthesiology -12/04/2003.

#### DISPUTED SERVICES

Disputed services include 99213 office visits, 99080 special report, 20610 arthrocentesis, J0702 injection, A4209 syringe and 73560 radiographic examination from 12/20/2004.

#### DECISION

The reviewer agrees with the previous adverse determination regarding code 99080.

The reviewer disagrees with the previous adverse determination regarding all remaining codes.

#### BASIS FOR THE DECISION

The decision is based on the office visit of 12/20/2004. This patient had not been seen by the provider for 14 months after her surgery. She returned on 12/20/2004 complaining of pain and swelling of the knee. Since 14 months had passed since the provider saw this patient, standard of care would be to take an X-ray of the knee to determine if there is any arthritis developing. The X-ray was done and showed minimal narrowing of the medial compartment representing a Stage I degenerative arthritis of the knee.

The patient had effusion in the knee and the only way to remove the effusion is by doing an arthrocentesis. The arthrocentesis was done under Betadine Skin Prep, local anesthetic, arthrocentesis and installation of cortisone. One cannot drain a knee without a syringe or put cortisone in a knee without a syringe. Arthrocentesis cannot be accomplished without a syringe. The arthrocentesis, injection, and syringe are approved.

The patient should be seen in the doctor's office and therefore it is appropriate to charge for the office visit since it was 14 months since the provider last saw the patient. The office visit of 12/20/2004 is approved. The routine practice in an office is to either handwrite or dictate the findings of the office visit. This is not a special report so the 99080 is not approved.

#### REFERENCES

Campbell's Operative Orthopedics, 10<sup>th</sup> Edition.

Miller: Review of Orthopedics, 4<sup>th</sup> Edition.

Saunders: Injection Techniques in Orthopedics & Sports Medicine, 2<sup>nd</sup> Edition.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director

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