



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

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier	
Requestor's Name and Address: Pain and Recovery Clinic % Bose Consulting, L. L. C. P. O. Box 550496 Houston, Texas 77255	MDR Tracking No.: M5-05-3139-01 - Corrected
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: American Zurich Insurance Company, Box 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC 60 form, Explanations of Benefits, medical documentation and CMS 1500's. Position summary states, "It is the provider's position that the treatment provided to the claimant is medically reasonable and necessary. The provider is requesting fair reimbursement of quality medical treatment provided to the claimant."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC 60 form, Explanations of Benefits, medical documentation and CMS 1500's. Position summary (Table of Disputed Services) states, "Per peer review: not medically necessary."

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)
8-31-04, 9-14-04, 9-28-04, 10-12-04, 1-4-05, 1-18-05	CPT code 99212 (48. 03 x 4 DOS + \$49.41 x 2 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$192.12 \$98.82
1-28-05	CPT code 99214	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$104.79
11-16-04	CPT code 99213	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$67.25
8-31-04 – 1-28-05	CPT codes 97035, 97140, 97116, E1399, 97110, 97112, 97032, 99212 (except as noted above), 99214 (except as noted above) 99213 (except as noted above)	<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 not prevail on the majority of the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is \$462.98.

In accordance with Rule 133.308 (e) date of service 7-17-04 is untimely and will not be a part of this review.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 (e) and 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 not entitled to a refund of the paid IRO fee. The Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute in the amount of \$462.98. 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

12-13-05

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.

Amended Report of 11/9/05

October 7, 2005

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

Patient:
DWC #:
MDR Tracking #: M5-05-3139-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Division of Workers' Compensation has assigned this case to Specialty IRO for independent review in accordance with DWC 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 Chiropractor. The reviewer is on the DWC 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

Ms. ___ was injured on ___ while working for _____. The records indicate she was injured when she was reaching for a box and felt a pop in her upper back. She was treated by Ramiro Torres DC for approximately eleven months. Designated doctor Shanti indicates that the patient requires a cervical spine surgical evaluation prior to being certified at MMI secondary to failed lower levels of treatment on 5/17/04. Dr. Booth, peer review doctor, indicates in his June 2004 report that a series of 3 x 2 rehab sessions is appropriate following the injections. The TWCC 73 by Dr. Osborne releases the patient to work. All other TWCC 73's by the treating doctors indicate she cannot return to work. She underwent multiple ESI treatments over the course of treatment. On 9/22/04 Dr. McLeod indicates a cervical neurosurgical consult is necessary. She began treatment with William Hicks, DC. The patient underwent an ACDF by Richard Francis, MD on 3/13/05.

The patient's pain scale was a 4/10 on 1/2/04. Her pain scale elevated to a 9/10 on 5/6/04. Her pain scales continued in the same range through the end of the year. As of 3/30/05, her pain scale had reduced to a 5/10. By 5/2/05 the patient's pain scale had reduced to a 2/10.

RECORDS REVIEWED

Records were received from the respondent, treating doctor and requestor. The material consists of approximately 3 inches of records. Records from the respondent include the following: 10/19/04 notice of disputed issue form, 2/18/04 comprehensive medical analysis report, 2/12/04 peer review by Martin Steiner, MD, 6/4/04 report by Denelda Golden, RN, 6/1/04 report by Michael Booth, DC, E1 report, initial report from Pain and Recovery Clinic of Houston (PRC) of 11/12/03, daily SOAP notes from 11/17/03 through 09/17/04 by Ramiro Torres, DC, DME script of 11/26/03, 12/3/03 progress note by PRC, rehab sheet by PRC from 12/4/03 through 1/2/04, TWCC 32 of 12/18/03, follow up note by Dean McMillan, MD of 2/13/04, PRC rehab sheet from 2/19/04 through 3/19/04, various dated treatment plan summaries, PRC rehab sheet from 3/22/04 through 5/3/04, muscle stim eval

sheet, 4/28/04 re-examination sheet by PRC, rehab sheet by PRC from 5/5/04 through 6/4/04, 5/6/04 note by Ramiro Torres, DC, 6/8/04 progress note by PRC, rehab sheet by PRC from 6/10/04 through 7/16/04, 7/8/04 progress note PRC, rehab sheet by PRC from 7/19/04 through 8/25/04, 7/23/04 report by Darin Mitchell, DC, 8/16/04 note by Mary Aregood, RN, rehab note by PRC from 9/8/04 through 9/17/04, 10/13/04 note by Lubor Jarolimek, MD, 12/22/04 report by William Hicks, DC, rehab sheet by PRC from 01/12/04 through 2/13/04, 1/14/04 note by PRC, 11/18/03 consult by A. Aggarwal, MD, clinical exam note of 12/5/03 by PRC, 12/19/03 script for meds by Dr. McMillan, 1/21/04 and 6/23/04 notes by Kenneth Berliner, MD, 1/14/04 and 4/13/04 notes by Kevin White, DC, DD report of 1/23/04 by Marisa Inigo, MD, handwritten note by Dr. Inigo, patient records regarding a person who is not related to this review Dagnachew Woldeeslassie, (this item will be disregarded), 2/23/04 note by Omar Vidal, MD, operative and discharge report of 3/11/04, 3/18/04 progress note by PRC, 3/22/04 office note by Dr. Vidal, 4/15/04 operative and discharge report by Dr. Vidal, 4/19/04 office note by Dr. Vidal, 4/20/04 operative and discharge report by Dr. Vidal, 5/17/04 DD report by Ihasn Shanti, MD, 8/8/05 report by Goran Jezic, MD, 7/30/04 report by Edward Murphy, MD, DD report by Alonzo McLeod, MD of 9/22/04, 11/12/04 FCE by Optimum Medical Testing, 12/7/04 report by Richard Francis, MD, 10/14/04 letter indicating Dr. Torres is no longer the TD on this case, TWCC 53, various TWCC 73's, 11/14/03 imaging report by N Houston Imaging Center, Right shoulder and cervical MRI of 11/26/03, 12/18/03 neurodiagnostic report, 6/7/04 EMG/NCV of the UE report, Bose consulting report, multiple TWCC 62's, multiple HICFA 1500's and various computer generated screen prints from the carrier.

Records from the treating doctor include some of the above in addition to the following: 12/12/04 letter from FOL, 12/29/04 DD report by Alonzo McLeod, MD (report is missing page 5 (conclusion)), 11/16/04 report by PRC, 10/15/04 note by PRC, 9/8/04 PRC note, 8/12/05 PRC report, 5/2/05 report by Walter Long, MD, 5/2/05 note by PRC, 3/30/05 note by PRC, initial report by Dr. Long of 3/2/05, 1/28/05 report by PRC and 12/22/04 report by PRC.

Records from the requestor include some of the above in addition to the following: (exhibits 1-6) position statement of Bose Consulting, DD report by Dr. McLeod (including page 5), 6/8/05 note by PRC, 7/8/05 note by PRC, 8/12/04 note by PRC, 10/15/04 note by PRC and 11/16/04 note by PRC.

The reviewer indicates that all documents reviewed have been listed with the understanding that all documents were attempted to be separated by which provider/party sent them. There is a possibility with the volume of documentation that a report is notated to have been sent by the incorrect party. Nevertheless, the document was reviewed regardless of the party, which sent said document.

DISPUTED SERVICES

Disputed services include the following: 99212, 99213, 99214, 97035, 97110, 97112, 97140, 97032, 97116 and E1399 from 8/31/04 through 1/28/05.

DECISION

The reviewer agrees with the previous determination regarding all of the following codes on all dates of service under review: 97035, 97140, 97116, E1399, 97110, 97112 and 97032.

The reviewer disagrees with the previous adverse determination regarding codes 99212: (8/31/04, 9/14/04, 9/28/04, 10/12/04, 01/04/05, 01/18/05), 99214: (1/25/04) and 99213: (11/16/04).

BASIS FOR THE DECISION

The reviewer indicates that the active therapies that were performed did not qualify as medically necessary treatment as per Texas Labor Code 408.021. As the patient's pain scales did not decrease during the period under treatment, her functionality did not improve nor did she return to work. The rehabilitative program was well documented; however, it did not seem to be helping the patient during the period under review. The reviewer indicates that a doctor cannot look into the future and see if a program will work; however, with the failure of this patient in the past with a physical rehabilitation program there was not a reasonable chance of success in this case.

The reviewer indicates that the passive therapies performed during the period under review were medically unnecessary as it relates to the compensable injury as per the ACOEM Guidelines and the Guidelines of the Council of Chiropractic Physiological Therapeutics and Rehabilitation. Gait discrepancies were not noted and would be unnecessary in a cervicothoracic injury without

severe neurological compromise. According to the ODG's, up to a 156 day disability can be expected with a heavy PDL. The FCE of 11/12/04 indicates her work qualifies for this PDL. It is sometimes unreasonable to expect a patient to meet a heavy PDL on certain occasions.

The office visits were medically necessary on a biweekly basis to help the treating doctor refer the patient for care and maintain the doctor patient relationship. Therefore, the office visits were approved as indicated.

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 the reviewing provider has no known conflicts of interest between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director

Your Right To Appeal:

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). 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. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

Sincerely,

Wendy Perelli, CEO

I hereby certify, in accordance with TDI-DWC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the DWC via facsimile, U.S. Postal Service or both on this 9th day of November 2005

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli