



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:  
Airline Chiropractic & Rehab, P.A.  
2215 Airline Drive  
Houston, Texas 77009

MDR Tracking No.: M5-05-3161-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

Box 19

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

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

DOCUMENTATION SUBMITTED: TWCC-60 package, explanations of benefits and CMS 1500s

POSITION SUMMARY: "Please be advised that Jack T. Barnett, D.C. and Airline Chiropractic & Rehabilitation file this Request for Medical Resolution."

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

DOCUMENTATION SUBMITTED: Response to TWCC-60

POSITION SUMMARY: This case involves DOS from 08/20/04 through 11/29/04 with \$6,758.38 in dispute according to the requestor. Self-insured denied payment for the billed services because they were not adequately documented to show that they were medically necessary.

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
08-20-04 to 11-29-04	98943, 97110, G0283, 97035, 97124, 99211, 99213, 99212 and 99214	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00

#### 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.

On 09-02-05, 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 code 97750-MT date of service 10-04-04 is billed with a correct CPT code, however modifier MT is invalid, therefore this service will not be a part of the review.

CPT codes G0283, 97035, 97124 date of service 08-20-04 denied with denial code "N" (documentation submitted does not support an expanded history and/or expanded exam and/or medical decision making, as required for this level of service). The requestor did not submit documentation for review. No reimbursement recommended.

Review of CPT code 98943 date of service 09-10-04 revealed that neither party submitted a copy of an EOB. Per Rule 133.307(e)(2)(B) the requestor submitted convincing evidence of carrier receipt of the providers request for an EOB. Reimbursement is recommended in the amount of **\$33.94**.

CPT codes 98943, 97110, G0283, 97035 and 97124 date of service 09-28-04 are listed on the table of disputed services for review. Per Rule 133.307(e)(2)(A) the carrier did not submit copies of medical bills for review. No reimbursement recommended.

CPT code 99455-V4 date of service 11-29-04 denied with denial code "U" (medical necessity). Per Rule 134.202(E)(6)(B)(iii) this service is not subject to an IRO review. Reimbursement is recommended in the amount of **\$101.74**.

A Compliance and Practices referral will be made as the carrier is in violation of Rule 134.202(E)(6)(B)(iii).

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

28 Texas Administrative Code Sec. 133.308, Rules 133.307(e)(2)(B), 133.307(e)(2)(A) and 134.202(E)(6)(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 reimbursement in the amount of \$135.68. 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 this amount plus all accrued interest due at the time of payment to the Requestor within 30 days of receipt of this Order.

Ordered by:

10-24-05

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

\_\_\_\_\_  
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.**



**COMPPARTNERS FINAL REPORT**



CompPartners Peer Review Network  
Physician Review Recommendation  
Prepared for Texas Department of Insurance (TDI)

Claimant Name: \_\_\_\_\_  
Texas IRO #: \_\_\_\_\_  
MDR #: M5-05-3161-01 \_\_\_\_\_  
Social Security #: \_\_\_\_\_  
Treating Provider: Jack Barnett, D.C. \_\_\_\_\_  
Review: Chart \_\_\_\_\_  
State: TX \_\_\_\_\_

**Review Data:**

- Notification of IRO Assignment dated 9/2/05, 1 page.
- Receipt of Request dated 9/2/05, 1 page.
- Medical Dispute Resolution Request/Response dated 7/27/05, 2 pages.
- Table of Treating Providers (date unspecified), 1 page.
- Table of Disputed Services dated 11/29/04, 11/22/04, 11/18/04, 11/10/04, 11/8/04, 11/3/04, 10/27/04, 10/25/04, 10/20/04, 10/18/04, 10/15/05, 10/13/04, 10/11/04, 10/8/04, 10/6/04, 10/4/04, 9/28/04, 9/27/04, 9/23/04, 9/22/04, 9/20/04, 9/17/04, 9/15/04, 9/10/04, 9/8/04, 9/1/04, 8/30/04, 8/27/04, 8/20/04. 9 pages.
- Explanation of Benefits dated 12/30/04, 11/8/04, 10/21/04, 9/24/04, 9/12/04, 10 pages.
- Facsimile Transmittal dated 9/16/05, 9/14/05, 9/2/05, 5 pages.
- Fax Confirmation dated 9/16/05, 9/14/05, 4 pages.
- Order of Payment of Independent Review Organization Fee dated 9/21/05, 1 page.
- Cover Sheet dated 10/4/05, 1 page.
- Initial Medical Narrative dated 6/23/04, 2 pages.
- Right Elbow and Forearm X-ray dated 6/28/04, 1 page.
- Right Elbow MRI dated 6/28/04, 1 page.
- Right Forearm MRI dated 6/28/04, 1 page.
- Office Visit dated 9/13/04, 7/8/04, 3 pages.
- Subsequent Medical Report dated 11/8/04, 10/6/04, 8/20/04, 6 pages.
- Chiropractic Office Visits dated 11/29/04, 11/22/04, 11/18/04, 11/10/04, 11/8/04, 11/3/04, 10/27/04, 10/25/04, 10/20/04, 10/18/04, 10/15/04, 10/13/04, 10/11/04, 10/8/04, 10/6/04, 10/4/04, 9/29/04, 9/27/04, 9/23/04, 9/22/04, 9/20/04, 9/17/04, 9/15/04, 9/10/04, 9/8/04, 9/1/04, 8/30/04, 8/27/04, 8/25/04, 8/23/04, 8/20/04, 31 pages.
- Chiropractic Notes dated 11/8/04, 11/3/04, 10/27/04 10/25/04, 10/20/04, 10/18/04, 10/15/04, 10/13/04, 10/11/04, 10/8/04, 10/6/04 10/4/04, 9/29/04, 9/27/04, 9/23/04, 9/22/04 9/20/04, 9/17/04, 9/15/04, 9/10/04, 9/8/04, 9/1/04, 8/30/04, 8/27/04, 8/25/04, 8/23/04, 8/20/04, 14 pages.
- Patient Information dated 10/4/04, 1 page.
- Isometric Muscle Testing Examination dated 10/4/04, 8 pages.
- Informed Consent dated 10/4/04, 1 page.
- Report of Medical Evaluation dated 11/29/04, 3 pages.
- Upper Extremity Impairment Evaluation Record dated 11/29/04, 1 page.
- Reconsideration Letter dated 1/27/05, 1 page.

**Reason for Assignment by TDI/DWC:** Determine the medical necessity for chiropractic manipulation, therapeutic exercises, electrical stimulation, ultrasound, massage and office visits, for the right elbow for dates of service 8/20/04 to 11/29/04.

**Determination:** **UPHELD** – the previous denial for chiropractic manipulation, therapeutic exercises, electrical stimulation, ultrasound, massage and office visits, for the right elbow for dates of service 8/20/04 to

11/29/04.

**Rationale:**

**Injured worker's age:**

**Gender:**

**Date of Injury:**

**Mechanism of Injury:** Pulling and engine turbo which was above his head and felt pain in the right elbow.

**Diagnoses:** Extensor tendon tear of right elbow/forearm and myospasms, right forearm sprain/strain and right elbow lateral epicondylitis.

This patient was first seen by his doctor and given medications and physical therapy. He, then came under the care of Jack T. Barnett, DC on 6/23/04 and began a course of conservative physical therapy and was progressed to active care. The initial chief complaint section of this report on 6/23/04 indicated increased right arm pain and right hand weakness during grasping, lifting, pulling and pulling activities. He had normal light touch sensation, tenderness to palpation along the elbow and forearm, muscle spasms in wrist and finger, motor examination was normal except right wrist extension, finger extension and thumb abduction revealed slight weakness graded +4/5. His range of motion on that date was elbow flexion 126 degrees, extension was 0 degrees. He then underwent an X-ray of the right elbow and forearm on 6/28/04, which were normal.

An MRI of the right elbow on 6/28/04 indicated a high-grade type II tear of the common extensor tendon extending into the muscular component with associated subcutaneous edema surrounding the common extensor tendon. There was also a small effusion of the elbow joint. An MRI of the right forearm indicated no other abnormality other than the findings on the elbow MRI. The patient was evaluated by an orthopedic surgeon Lubor Jarolimek, MD on 7/8/04 and range of motion was 0 to 140, elbow was stable, non-tender medially and there was pain along the lateral epicondylar areas along the extensor mass origin. Pain was increased with resisted dorsiflexion of the right wrist. There was point tenderness just anterior and proximal to the radial head. Dr. Jarolimek, MD indicated in this report that the claimant was improving with rehabilitation (although does not indicate how he is improving) and recommend continued therapy, desensitization massage, trigger point massage, passive and active stretching and to avoid activities which increase the pain. He would advise a steroid shot if there was no improvement in 6-8 weeks. He was advised to take non-steroidal anti-inflammatories for pain and discomfort.

The next real information was contained in a subsequent report from Dr. Barnett, DC on 8/20/04. This was the date the dispute of the items begins. The exam was unchanged overall from the 6/23/04 exam findings except for an increase of 4 degrees of flexion in the right elbow to 130 degrees however, one must remember Dr. Jarolimek, MD measured him at 140 degrees on 7/8/04. All other findings were the same. The patient was working full duty. Daily notes of chiropractic and rehabilitation were redundant from 8/20/04 to 11/29/04. They otherwise had merely a check mark by improved on each and every visit. On each visit, he had right elbow and forearm pain and weakness without measurable pain scale rating, and indicated myospasms on each visit of right forearm extensor muscles with weakness in the right arm/wrist. There was no measurable amount of weakness to prove improvements. There was no change in the subjective complaints. There was no change in muscle spasms with any degree of measurable improvements.

The re-exam by Dr. Barnett, DC on 10/6/04 again, gave exact and redundant information contained in previous reports and again tenderness was noted in the elbow and forearm. He now measures the flexion of the right elbow as 134 degrees, but again; it was normal at 140 degrees on 7/8/04. He was given therapeutic exercises, ultrasound and massage on most of the visits with electrical stimulation occasionally. By the 11/8/04 re-exam from Dr. Barnett, DC, again, it was the same report information as prior and 138 degrees of flexion in the elbow. Otherwise, the exam was identical to the last with tenderness to palpation in the right elbow and forearm. On 11/29/04, he did a report of medical evaluation and gave the claimant a zero percent impairment. This report is identical to all the previous exam reports except for the heading and the fact he added an impairment rating with grip strength of the right at 36-36-35 and left 41-40-41.

When reference is made to the ACOEM Guidelines, Chapter 10 it does not support continued passive care such as ultrasound and electrical stimulation and massage therapy without objective progress. Page 235 states that in general, if tied to signs of objective progress within two to three weeks, it may be acceptable to use these modalities as an adjunct to a program of evidence based functional restoration. This patient had full range of motion at 140 degrees on 7/8/04 when measured by an orthopedic specialist. There were absolutely no measurable subjective pain scores to compare in the documentation provided. There was absolutely no other objective measurable documentation to prove any type of significant improvement had occurred with this treatment plan up to 7/8/04 when the orthopedic specialist examined him.

This specialist advised for 6 more weeks of continued therapy, desensitization massage, trigger point massage, passive and active stretching and to avoid activities which increase the pain. This prescription would have been finished up by 8/20/04 and this orthopedic specialist prescribes no further treatment in any of the documentation. Therefore, since he did have full range of motion at 140 degrees on 7/8/04 the necessity to continue this therapy from 8/20/04 to 11/29/04 is without obvious justification. Additionally, the notes from 8/20/04 to 11/29/04 lack any measurable documented functional improvements specifically other than range of motion but that was normal on 7/8/04 as measured by an orthopedic specialist. There are no positive orthopedic test findings offered. There is no indication of any flare up occurrences. There are no co-morbid factors documented. This claimant appears to have been a candidate for home exercises as he was working full duty at work and had full range of motion documented as recently as 7/8/04. Therefore, it is the opinion of this reviewer that the medical necessity is not proven for these disputed items from 8/20/04 to 11/29/04.

**Criteria/Guidelines utilized:** TWCC Rules and Regulations.  
ACOEM Guidelines, 2<sup>nd</sup> Edition, Chapter 10.

**Physician Reviewers Specialty:** Chiropractic.

**Physician Reviewers Qualifications:** Texas Licensed D.C. currently listed on the TWCC ADL list.

**CompPartners, Inc. hereby certifies that the reviewing physician or provider has certified 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 determination prior to referral to CompPartners, Inc.**

#### 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.