



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 Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier	
Requestor's Name and Address: Health & Medical Practice Associates 324 North 23 rd Street Suite 201 Beaumont, Texas 77707	MDR Tracking No.: M5-05-3276-01
	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

DOCUMENTATION SUBMITTED: DWC-60 dispute package
POSITION SUMMARY: From the table of disputed services "medically necessary".

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60 package
POSITION SUMMARY: This dispute involves the carrier's payment for date of service 9/7/2004 to 12/10/2004. The requester billed \$1,647.59; Texas Mutual paid \$0.00. The requester believes it is entitled to an additional of \$1,647.59.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
09-07-04 to 12-10-04	97032, 97110 and 95904	<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.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

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 not entitled to reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

Authorized Signature

12-27-05

Date of Findings and Decision

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.

This is a gentleman who reportedly was involved in a work related motor vehicle accident. He was treated conservatively with physical therapy and ESI's. There is a cervical MRI that noted disc space narrowing in a chronic nature. Dr. Novelli noted pain in the lumbar region and this was addressed with electrical stimulation and other therapeutic measures. The response to these measures was not noted. A Designated Doctor evaluation was completed by Dr. Mayorga who felt that maximum medical improvement was not reached in September 2004. A FCE was completed in October and less than sedentary work was the evaluation. The same modalities were continued for several months with no real improvement reported. In response Health & Medical Practice associates sent a copy of their chart. This included excerpts of HB 2600, documentation of physical therapy visits and activities completed, daily progress notes of Dr. McMeans, copy of the Texas Administrative code relating to rule 134.202, the FCE noted above, a redacted billing retrospective review with the patient name blacked out. Data sheets from the internet. Xerox copies from a text book with no specific citation, portions of the CPT manual, abstracts for peripheral neuropathy assessment. Multiple handwritten progress notes from January through June 2004 were noted. Superficial motor conduction velocity studies were noted. The procedures notes from the lumbar ESI were noted. Repeat copies of the medical bills completed the exhibits from the provider.

REQUESTED SERVICE(S)

Medical necessity for 97032 Electrical Stimulation, 97110 Therapeutic exercises, and 95904 nerve conduction for dates of service 9/7/04 through 12/10/04.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

The table covers a period from 9/7/04 through 12/10/04. The progress notes of Dr. Novelli repeatedly state that there was no change from the last appointment. Mr. ____ was "no different". The Designated Doctor evaluation in the middle of this noted complaints of pain and the physical examination was essentially the same as noted by the primary treating physician. The FCE also noted significant pain complaints, decreased functional ability and no positive response from the modalities offered. In that this was more than a year after the date of injury, and that no improvement was reported or objectified, the texts are clear that with no improvement there needs to be an alteration in the treatment plan. That basic standard was not applied.

97032 Electrical Stimulation (Application of a modality to one or more areas; electrical stimulation (manual), each 15 minutes) - There is little information available from trials to support the use of many physical medicine modalities for mechanical neck pain, often employed based on anecdotal or case reports alone. In general, it would not be advisable to use these modalities beyond 2-3 weeks if signs of objective progress towards functional restoration are not demonstrated. (Gross-Cochrane, 2002) (Aker, 1999) (Philadelphia, 2001) and that is the key point. There was support for this modality, but with no documentation of any positive sequelae from this intervention there is no reason to continue. The medical records reviewed do not identify any positive response. The first rule of medicine is to do no harm. Employing tactics that do not improve the condition violates this basic precept.

97110 Therapeutic procedure, (one or more areas, each 15 minutes) therapeutic exercises to develop strength and endurance, range of motion and flexibility low stress aerobic activities and stretching exercises can be initiated at home and supported by a physical therapist, to avoid debilitation and further restriction of motion. (Rosenfeld, 2000) (Bigos, 1999) For mechanical disorders for the neck, therapeutic exercises have demonstrated clinically significant benefits in terms of pain, functional restoration, and patient global assessment scales. (Philadelphia, 2001) (Colorado, 2001) (Kjellman, 1999) (Seferiadis, 2004) However as noted in the ODG, this should be limited to 10 visits over 6 weeks (Rosenfeld, 2000) (Bigos, 1999) (Ylinen-JAMA, 2003) (de Jager, 2004) For mechanical disorders of the neck, therapeutic exercises have demonstrated clinically significant benefits in terms of pain, functional restoration, and patient global assessment scales. (Philadelphia, 2001) (Colorado, 2001) (Ernst, 2003) (Schonstein, 2003) (Schonstein-Cochrane, 2003) (Ferrari, 2004) (Seferiadis, 2004) (Rodriguez, 2004) There was consistent evidence that exercises may be effective in preventing neck and back pain.

(Linton, 2001) Again, for a period in the initial phase of the injury, with no reported improvement and the FCE noting very marginal results, there was no clinical indication for repeating the process during the period in dispute.

95904 Nerve conduction – (Nerve conduction, amplitude and latency/velocity study, each nerve, any/all site(s) along the nerve; sensory) As per the ODG and related studies, the need for assessment of nerve conduction is recommended, however, this is recommended for needle and not surface studies which is the case here. Electromyography (EMG), including H-reflex tests, may be useful to clarify nerve root dysfunction in patients without signs of improvement after four weeks. (Bigos, 1999) (Colorado, 2001) (Note: Needle EMG and H-reflex tests are recommended, but Surface EMG and F-wave tests are not very specific and therefore are not recommended. Surface electromyography (SEMG), which records the summation of muscle activity from groups of muscles, a noninvasive procedure, is contrasted with needle electromyography, an invasive procedure, in which the electrical activity of individual muscles is recorded. Paraspinal SEMG, also referred to as paraspinal EMG scanning, has been explored as a technique to evaluate abnormal patterns of electrical activity in the paraspinal muscles in patients with back pain symptoms such as spasm, tenderness, limited range of motion, or postural disorders. Paraspinal SEMG is an office-based procedure that may be most commonly used by physiatrists or chiropractors. There are inadequate data regarding paraspinal SEMG to validate the three key attributes of any diagnostic test: its performance compared to a gold standard, how the test is used in the management of the patient, and validation that the changes in patient management result in an overall health benefit. Surface EMG and F-wave tests are not very specific and therefore are not recommended, but Needle EMG and H-reflex tests are recommended. (Haig, 1996) (BlueCross BlueShield, 2004) (CCGPP, 2005) Additionally, repeated assessments on multiple days do not advance the diagnosis or change the treatment plan. This is not clinically indicated.

Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the 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.

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.

Chief Clerk of Proceedings
Division of Workers' Compensation
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

Signature of IRO Employee: _____

Printed Name of IRO Employee: