



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

<b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: Pain & Recovery Clinic of North Houston 6660 Airline Drive Houston, Texas 77076	MDR Tracking No.: M5-05-3309-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Service Lloyds Insurance Company Box 42	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

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

DOCUMENTATION SUBMITTED: TWCC-60 package, CMS 1500s and explanations of benefits  
POSITION SUMMARY: No position summary submitted

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

DOCUMENTATION SUBMITTED: Response to TWCC-60  
POSITION SUMMARY: No position summary submitted

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
01-03-05 to 02-11-05	99212, 97110, 97140 and 97112	<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.

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

28 Texas Administrative Code Sec. 133.308

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

**Findings and Decision by:**

10-31-05

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

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



ACCREDITED  
EXTERNAL REVIEW  
ACCREDITED  
EXTERNAL REVIEW

## CompPartners Final Report

CompPartners Peer Review Network  
Physician Review Recommendation  
Prepared for TDI/DWC

**Claimant Name:**

**Texas IRO # :**

**MDR #:** M5-05-3309-01

**Social Security #:**

**Treating Provider:** Dean McMillan

**Review:** Chart

**State:** TX

**Review Data:**

- Notification of IRO Assignment dated 9/13/05, 1 page.
- Receipt of Request dated 9/14/05, 1 page.
- Medical Dispute Resolution Request/Response dated 8/22/05, 1 page.
- List of Treating Providers (date unspecified), 4 pages.
- Table of Disputed Services dated 2/11/05, 2/9/05, 2/7/05, 2/4/05, 2/3/05, 1/31/05, 1/28/05, 1/26/05, 1/25/05, 1/12/05, 1/11/05, 1/5/05, 1/3/05. 4 pages.
- Explanation of Review Audit dated 4/4/05, 3/10/05, 2/21/05, 6 pages.
- Facsimile Transmittal dated 9/14/05, 1 page.
- Fax Confirmation dated 9/14/05, 1 page.
- Cover Sheet dated 9/29/05, 1 page.
- Physician Consultant Review dated 9/27/04, 2 pages.
- Medical Record Review dated 3/18/05, 2 pages.
- Medical Record Review Addendum dated 4/8/05, 2 pages.
- Requestor's Position Statement (date unspecified), 2 pages.
- Employee's Notice of Injury or Occupational Disease and Claim for Compensation dated \_\_\_\_\_, 2 pages.
- Out-patient Record dated 3/2/04, 1 page.
- Outpatient Consult Form dated 3/2/04, 1 page.
- Operative Report dated 1/13/05, 2/14/04, 10 pages.
- Discharge Summary dated 2/15/04, 6 pages.
- Missed Appointment dated 3/19/04, 3/5/04, 2 pages.
- Initial Office Visit dated 3/3/04, 2 pages.
- Intervertebral Motion Analysis Report dated 3/3/04, 1 page.
- Consultation dated 3/12/04, 2 pages.
- Follow-up Visit dated 3/31/04, 1 page.
- Prescription dated 1/28/05, 1/25/05, 12/30/04, 12/1/04, 10/3/04, 8/30/04, 7/8/04, 5/11/04, 4/14/04, 4/5/04, 3/31/04, 9 pages.
- Texas Workers' Compensation Work Status Report dated 6/1/05, 5/3/05, 3/31/05, 3/1/05, 1/28/05, 12/30/04, 12/1/04, 11/3/04, 10/4/04, 9/9/04, 8/10/04, 7/8/04, 6/3/04, 5/11/04, 4/14/04, 4/5/04, 3/17/04, 3/3/04, 17 pages.
- Patient Eye Examination dated 4/14/05, 2 pages.
- Work/Comp History dated 4/6/04, 4 pages.
- Initial Evaluation dated 4/23/04, 4 pages.
- Initial Medical Report dated 4/6/04, 4 pages.
- Progress Notes dated 6/1/05, 5/3/05, 3/31/05, 3/9/05, 3/1/05, 1/28/05, 1/25/05, 12/30/04, 8/19/04, 8/10/04, 6/3/04, 5/11/04, 4/14/04, 14 pages.

- Subsequent Medical Report dated 6/1/05, 3/31/05, 3/1/05, 1/25/05, 12/30/04, 12/1/04, 11/3/04, 10/4/04, 9/9/04, 8/10/04, 7/8/04, 6/3/04, 5/11/04, 4/14/04, 27 pages.
- Office Visit dated 10/14/04, 8/19/04, 6/14/04, 5/11/04, 6 pages.
- Physical Therapy Progress Notes dated 1/25/05, 11/29/04, 8/2/04, 6/2/04, 12 pages.
- Employee's Request to Change Treating Providers dated 6/24/04, 2 pages.
- Nerve Conduction Study Report dated 5/5/05, 7/13/04, 11 pages.
- CT Scan of The Head With No Contrast Intravenously dated 7/14/04, 1 page.
- CT Scan of The Head With Contrast Intravenously dated 7/14/04, 1 page.
- Progress Report dated 8/19/04, 2 pages.
- Letter from Darin Mitchell, DC dated 9/7/04, 1 page.
- Functional Abilities Evaluation dated 9/7/04, 6 pages.
- Evaluation dated 11/15/04, 9/14/04, 7 pages.
- Functional Capacity Assessment dated 9/20/04, 16 pages.
- Brain MRI dated 9/29/04, 2 pages.
- Work/School Release dated 10/8/04, 2 pages.
- Assessment from Pain and Recovery Clinic dated 4/21/05, 3/31/05, 10/12/04, 9 pages.
- Pre-Authorization Determination dated 5/26/05, 10/18/04, 4 pages.
- Request For Reconsideration dated 10/26/04, 2 pages.
- Work Hardening Assessment Psychosocial History dated 10/6/04, 4 pages.
- Addendum dated 10/7/04, 2 pages.
- SOAP Notes dated 2/11/05, 2/9/05, 2/7/05, 2/4/05, 2/3/05, 1/31/05, 1/28/05, 1/26/05, 1/25/05, 1/12/05, 1/11/05, 1/7/05, 1/5/05, 1/3/05, 12/30/04, 12/29/04, 12/27/04, 12/23/04, 12/22/04, 12/20/04, 12/17/04, 12/15/04, 12/13/04, 12/10/04, 12/8/04, 12/6/04, 12/3/04, 12/1/04, 11/29/04 28 pages.
- Follow-up Assessment dated 12/10/04, 1 pages.
- Report of Medical Evaluation dated 6/27/05, 4/28/05, 11/22/04, 3 pages.
- Physical Assessment Examination dated 11/19/04, 4 pages.
- Follow-up Note dated 1/7/05, 1 page.
- Psychiatric Evaluation dated 1/21/05, 3 pages.
- Clinical Status Report dated 3/10/05, 3 pages.
- Work Hardening Assessment Psychosocial History dated 3/22/05, 4 pages.
- Upper Extremity Impairment Evaluation Record dated 4/28/05, 1 page.
- Designated Doctor Report dated 5/14/05, 5 pages.
- Work Capacity Evaluation dated 4/21/05, 8 pages.
- Independent Medical Evaluation dated 5/10/05, 6 pages.
- Request for Clarification dated 5/31/05, 2 pages.
- Impairment Evaluation dated 6/27/05, 4 pages.

**Reason for Assignment by TDI/DWC:** Determine the medical necessity of the previously denied therapeutic exercises, manual therapy technique, and neuromuscular re-education, with dates of service from 1/3/05 to 2/11/05.

**Determination:** UPHELD - previously denied therapeutic exercises, manual therapy technique, and neuromuscular re-education, with dates of service from 1/3/05 to 2/11/05.

**Rationale:**

**Patient's age:**

**Gender:**

**Date of Injury:**

**Mechanism of Injury:** Fell from scaffolding.

**Diagnoses:** Closed head injury, distal radius fracture and styloid fracture, facial fracture and orbital ecchymosis, lumbar radiculitis, cervical radiculitis, posttraumatic vision loss of left eye (4-6-04 report page 3 Dr. McMillan I think they meant right eye as there is no reported left eye involvement). Cervical sprain, thoracic sprain, lumbar strain and left upper arm radiculopathy

**The dates of service in this dispute range from 1/3/05 to 2/11/05 with 13 dates of service. The codes, which are provided for this dispute, include 99212 for EM, 97110 therapeutic exercises, 97140 manual therapies and 97112 neuromuscular re-education. This totals \$3, 809.05 dollars.**

The case history stated that the claimant was taken to Ben Taub Hospital and admitted for multiple fractures of the skull, fracture of the right frontal bone extending to the roof of the right orbit and maxillary sinus and right lamina with right frontal epidural hematoma as well as a right distal radius fracture, and he was then discharged on 2/15/04. He underwent a surgical procedure for the right radius fracture with percutaneous pinning and k-wires on 3/4/05 after failure of the initial closed reduction. He had an ophthalmology consultation with Houston Eye Associates in which no follow-up was needed, an ear-nose-throat (ENT) consultation on 3/13/04, as well as orthopedic care with Dr. Charles Reitman, MD, medications, and physical therapy. A consult with a neurologist Steven Lovitt, MD on 3/12/04 revealed some loss of sensation in the entire left arm and hand. An MRI of the cervical spine was performed on 2/12/04 which was negative, but a second MRI of the cervical spine performed on 6/4/04, revealed desiccation of disc material at C2-3, C3-4 and C4-5 and mild disc bulge at C3-4. A CT scan of the cervical spine as well as motion studies of the cervical spine were also documented as negative on a report from Dr. Reitman, MD on 3/3/04.

On 3/31/04, Dr. Reitman recommended that the patient receive conditioning and strengthening for the cervical and lumbar spine, with work conditioning. On 4/5/04, there was a prescription from Evan Collins, MD, an orthopedic surgeon at HEALTHSOUTH, who wanted him to continue therapy and strengthening for the hand. He saw Dr. Dean McMillan, MD at the Pain and Recovery Clinic on 4/6/04 with right wrist pain, right distal forearm pain, neck pain, low back pain, left elbow and wrist pain, right frontal and temporal headaches and blurred vision of the right eye and some reported anxiety as a result of pain and discomfort and impaired functional ability. He was then evaluated at the Pain and Recovery Clinic by Clay Meekins, LPT at the referral of Dean McMillan, MD. He also saw another orthopedic surgeon, Lubor Jarolimek, M.D., on 5/11/04, who recommended more therapy and an electromyogram (EMG) of the bilateral upper extremities. As of 6/3/04 Dr. McMillan documented continued reports of bilateral leg numbness, headaches, and right hand and wrist restrictions.

An MRI of the lumbar spine on 6/4/04 revealed a central disc bulge at L5-S1, and minimal disc bulge at L4-5 without canal or foraminal stenosis. An EMG/NCV of the upper extremities on 7/13/04 revealed findings consistent with peripheral neuropathy due to compression of the medial branch of the brachial plexus at the mid clavicle on the left which was moderate in nature. The lower extremity EMG/NCV on the same date revealed findings consistent with proximal radiculopathy due to impingement of the nerve root at S2 and L4, more prominent on the left, which was also moderate in nature. A CT scan of the head was done on 7/14/04, which was negative. The physical therapy progress report dated 8/2/04, documented subjective complaints of 2/10 pain in the cervical spine, low back and right forearm and he was improving. He continued to get physical therapy, therapeutic exercises with stabilization exercises as well as neuromuscular re-education. A neurosurgeon, Dr. Edward Murphy, MD, saw the patient on 8/19/04 and recommended work hardening and work conditioning.

On 9/7/04, the patient underwent a Functional Capacity Evaluation (FCE), which documented the patient to be functioning at a medium duty capacity. A job demand level was not made available to Darin Mitchell, DC, the examiner. The patient was evaluated by Brian Buck, MD, on 9/14/04, who determined that no further treatment, including work conditioning, work hardening, chiropractic or physical therapy were necessary. Another FCE was done on 9/20/04 by Gulf Coast Functional Testing and he was functioning at light-medium duty for a heavy-duty job demand level. He was determined to be sad and depressed and focused on his pain. On 10/6/04 he received a work hardening assessment psychosocial history from Denise Turboff, M.Ed., who recommended a work hardening program. James Hood, MD felt he did not require work conditioning or work hardening as of a 10/7/04 reconsideration. Despite this recommendation, the patient continued therapy at the Pain and Recovery Clinic, which was verified in the notes from 12/13/04 from Dipti Patel, DC, with therapeutic exercises, group therapeutic exercises, neuromuscular re-education and manual therapy with joint mobilization and myofascial release to the cervical, lumbar and wrist regions.

An independent medical examination was performed on 11/15/04 by Harlan Borcharding, DO who did not feel the patient was at maximum medical improvement and wanted him to return to the neurosurgeon, Dr. Murphy. The patient was advised to submit to an epidural steroid injection (ESI) of the cervical spine by Issan Shanti, MD, on 11/19/04, which was performed on 1/13/05. The notes from the Pain and Recovery Clinic of North Houston, dated 1/3/05, reflected that the patient had continued with therapy as described above. He continued to have the same complaints and objective findings with restricted ranges of motion in the cervical spine, lumbar spine, right wrist and forearm. Tenderness was documented in those areas, a positive Jackson's compression test, weakness of the left upper and bilateral lower extremities, numbness in the left upper arm and tenderness at the base of the occiput were also noted. These complaints were unchanged on the 1/5/05, 1/7/05, 1/11/05 and 1/12/05 daily progress notes. He was

evaluated on 1/25/05 and was having an increase in pain since the cervical epidural injection. Objective findings documented in t

the daily progress notes from the Pain and Recovery clinic dated 1/25/05, 1/26/05, 1/28/05, 1/31/05, 2/3/05, 2/4/05, 2/7/05, 2/9/05, 2/11/05 and the objective findings remained unchanged. On 3/1/05, Dr. McMillan, MD, reported that the patient continued to have increased pain in the cervical spine, and when he exercised, a pulling type of left arm pain persisted. Another FCE, on 3/31/05, indicated he was still functioning at medium duty and was sad, depressed and focused on pain. A FCE on 4/21/05 still showed a medium duty level of function. The patient underwent another designated doctor examination, on 4/28/05, with William Smith, MD who is a surgeon (specialty of surgery not indicated). His findings indicated the patient still reported pain in the left cervical region, left shoulder, left arm, left forearm, wrist, lumbar region and right-sided headaches. He was still rating his pain at 3-5/10. No cervical or lumbar orthopedic tests produced radicular complaints. Palpation did not reveal tenderness or spasms and straight leg raising was 80 degrees without low back pain or radicular symptoms. There were no neurological deficits noted in the motor or sensory functions of the upper or lower extremities and reflexes were 2+ bilaterally. Vision in the right eye was 20/100 uncorrected, and 20/20 corrected. Vision in the left eye was 20/40 uncorrected, and 20/20 corrected. He was determined to be at maximum medical improvement as of 4/28/05 with a 7% whole person impairment rating.

He received another EMG/NCV of the upper extremity on 5/5/05 and it was compatible with compromised C7-8 nerve root involving the left upper extremity, which was consistent with cervical radiculopathy of mild to moderate degree. James Hood, MD, an orthopedic surgeon, re-evaluated this patient again on 5/10/05 and, again, determined him not to be in need of any further treatment. He was, however, approved for 10 sessions of work hardening by the insurance company to be completed by 7/1/05, as of the notice dated 5/26/05. A FCE on 6/27/05 showed light-medium duty functioning.

In summary, Dr. Bucks determined, on 9/14/04, that he did not require further treatments. Dr. Troy Clark, DC, completed a peer review on 9/27/04, who determined no further treatment was indicated. Dr. James Hood, MD, an orthopedic surgeon, saw him on 10/7/04 and again on 5/10/05 and still felt no more treatments were necessary. On 4/28/05, the patient was determined to be at maximum medical improvement with a 7% impairment whole person rating.

Therefore, it is the opinion of this reviewer, after examining 418 pages of medical records, that these disputed services were not medically necessary at the time provided, with dates of services from 1/3/05 to 2/11/05. There were no curative or long term relief effects realized with the identical previously provided treatments rendered in 2004. This patient had received an excessive amount of treatment without measurable or documented improvements overall, either subjectively or objectively. Moreover, the patient had been found not to require further treatment as early as 9/14/04 and as late as 5/10/05 by various specialists. By 1/3/05, this patient should have been well versed in home exercises, after all the exercises he had done in an office and controlled supervised settings.

**Criteria/Guidelines utilized:** TWCC rules and regulations.

**Physician Reviewers Specialty:** Chiropractic

**Physician Reviewers Qualifications:** Texas licensed DC, BSRT, FIAMA Chiropractor and is also 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 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 the decision before the 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.