



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: Julio Fajardo, D.C. 2121 N. Main Street Fort Worth, Texas 76106	MDR Tracking No.: M5-05-3344-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Texas Mutual Box 54	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: Per the table of disputed services "Medically necessary treatment"

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to TWCC-60 and explanations of benefits
 POSITION SUMMARY: This dispute involves the carrier's payment for date of service 3/18/05 to 5/11/05. The requester billed \$275.00; Texas Mutual paid \$0.00. The requester believes it is entitled to an additional of \$165.20.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
03-18-05 to 05-11-05	97035 and 97140	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$691.02
		<input type="checkbox"/> Yes <input 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 **prevailed** on the disputed medical necessity issues. The reimbursement due from the carrier for the medical necessity issues equals **\$691.02**.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308

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 additional reimbursement in the amount of \$691.02. In addition, the Division finds that the requestor was the prevailing party and is entitled to a refund of the IRO fee in the amount of \$460.00. 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

10-11-05

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.



CompPartners Final Report



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

Claimant Name:

Texas IRO # :

MDR #: M5-05-3344-01

Social Security #:

Treating Provider: Julio Fajardo, DC

Review: Chart

State: TX

Date Assigned: 9/28/05

Date Completed: 10/5/05

Review Data:

- Notification of IRO Assignment dated 9/16/05, 2 pages. (2 copies)
- Receipt of Request dated 9/16/05, 1 page.
- Medical Dispute Resolution Request dated 8/23/05, 2 pages.
- List of Treating Doctor's (date unspecified), 1 page.
- Carriers Statement dated 9/13/05, 1 page.
- Table of Disputed Services dated 5/11/05, 5/9/05, 5/5/05, 5/2/05, 4/28/05, 4/27/05, 4/25/05, 4/22/05, 4/21/05, 4/20/05, 4/8/05, 4/6/05, 4/4/05, 4/1/05, 3/28/05, 3/18/05, 2 pages.
- Billing Audits dated 8/9/05, 6/29/05, 6/21/05, 6/6/05, 5/12/05, 5/11/05, 5/9/05, 5/6/05, 16 pages.
- Fax Cover Sheet dated 9/20/05, 9/16/05, 4 pages.
- Fax Confirmation Sheet dated 9/20/05, 9/16/05, 2 pages.
- Invoice dated 9/19/05, 1 page.
- Case Summary dated 8/25/05, 3 pages.
- Request for Reconsideration dated 7/18/05, 2 pages.
- Re-examination dated 4/14/05, 3 pages.
- Initial History and Physical dated 4/19/05, 3 pages.
- Occupational Injury Report dated , 3 pages.
- Daily Notes dated 5/11/05, 5/9/05, 5/5/05, 5/3/05, 5/2/05, 4/28/05, 4/27/05, 4/25/05, 4/22/05, 4/21/05, 4/20/05, 4/8/05, 4/6/05, 4/4/5, 4/1/05, 3/28/05, 3/18/05, 17 pages.
- Physical Performance Evaluation dated 5/20/05, 4/13/05, 4 pages.
- Lumbar Spine MRI dated 4/15/05, 2 pages.
- Electro-Diagnostic Testing dated 4/29/05, 4 pages.

Reason for Assignment by TDI/DWC: Appeal the medical necessity of the previously denied ultrasound and manual therapy technique.

Determination: REVERSED – previously denied ultrasound and manual therapy technique.

Rationale:

Patient's age:

Gender:

Date of Injury: ____

Mechanism of Injury: Repetitive bending while performing highway cleanup.

Diagnoses: Lumbar disc syndrome, radiculopathy on right L5-S1, piriformis syndrome and right sacroiliitis.

The patient was evaluated by Dr. Fajardo, DC on 3/14/05 and had 6/10 pain scale at its worst, and 8/10 pain scale with radiating pain into the foot from the back. He had weakness in the right leg. On 3/18/05 he had noted hypoesthesia along the S1 dermatome, Yeomans test was positive for right sacroiliitis, Nachlas and Hibb's test were positive and he had spasms and restrictions of motion. On 3/28/05 his pain scale was decreased to 5/10, and he was started on a home-based program as a supplement to his in-office treatments. His straight leg raising was positive at 70 degrees.

On 4/4/05 he was noted as being on both passive and active care. There was still weakness with hip motions secondary to pain, but no longer any edema. On 4/6/05 he reported that the episodes of shooting pains from the right gluteal region down into the foot had decreased but he was still had stiffness. The spasms had decreased but he limped. The notes from 4/8/05 indicated continued restriction of range of motion and that his range of motion in the lumbar spine was flexion 45 degrees, extension 20 degrees and right and left lateral flexion was 25 degrees. Straight leg raise was still positive. At that point, it was documented that he was transitioned to a home-based program.

On 4/20/05, he still received in-office therapeutic exercises and passive care. On 4/28/05 ranges of motion were unchanged. There was a documented deep tendon reflex of 1+ bilaterally. There was hypoesthesia along the SI dermatome on the right. There was a positive straight leg raise on the right documented on 5/3/05 notes, as well as a Braggard's test on the right, with continued hypoesthesia. His pain scale on 5/9/05 was 5-6/10 and sometimes was 3/10. He experienced numbness and tingling in the right leg and the straight leg raise was now 70 degrees on the right as of that date. On 5/11/05 he still had some pain, but was improving. Nevertheless, there were still some motions he could not do, in particular, hip motions. Objectively, he still had spasms and weakness in the lumbar spine and intrinsic muscles. It would appear at this point, this patient has reached a plateau with regard to the in-office treatments being provided. With reference to the notes, the patient still had weakness, he could still not do certain motions with his hip, and he was still had pain with radiation of pain.

This patient had an MRI of the lumbar spine performed on 4/15/05, which revealed pronounced findings at L5-S1, where there was a broad irregular osteophyte and a disc protrusion complex measuring 4mm to the right of midline and 2mm to the left of midline. The right side of the disc protrusion caused severe right lateral recess narrowing resulting in impingement upon the right L5 nerve root. There was also mild central canal stenosis on the left side at this level. L3-4 had a 1 mm broad based disc bulge, and at L4-5 there was a broad 2mm disc protrusion herniation

with mild right and moderate left neural foraminal narrowing. There was also an electrodiagnostic examination performed on 4/5/05, which revealed a right-sided L5-S1 radiculopathy.

The disputed manual therapy included services from 3/18/05 to 5/11/05 for 17 manual therapy charges and two ultrasound charges during this time frame. The daily notes accompanying this review were from [redacted] to 5/11/05. These notes indicated that the claimant had received therapeutic exercises, manual traction with flexion and distraction table with manual pressure, myofascial release techniques and massage therapy on each visit, and all of the documentation only showed one visit receiving manipulation, specifically, on 3/18/05 and an ultrasound on 3/18/05 and 3/28/05 only.

The current request is to determine the medical necessity for the disputed items, with ultrasound visits on 3/18/05 and 3/28/05, and 17 manual therapy treatments from 3/18/05 to 5/11/05. After careful review of these disputed items, it does appear that these items were properly documented for medical necessity for this passive care of ultrasound and manual therapy that would be expected during the initial treatment phase of care for this injured worker and his specific diagnoses and examination findings which were somewhat complicated. He did show significant improvement from his acute state, but by 4/20/05, he started to plateau and by 5/11/05, could certainly be determined to have reached maximum benefits and a plateau from this treatment plan. Although he was transitioned to a home based therapy and rehabilitation program by 4/8/05, he continued to have significant objective findings and subjective complaints which would warrant further exercise rehabilitation and manual therapy techniques in-office with instruction and passive care, as were provided. He was still having significant restriction in ranges of motion with spasms and shooting pains into his foot.

It was also noted in the appeal letter from Dr. Fajardo that this claimant did not comprehend to the same degree as some patients and was requiring additional instruction and supervision. He certainly did have complicating factors with regard to the radiculopathy, continued weaknesses, restricted ranges of motion and continued objective findings and subjective complaints of pain. It would appear that the claimant could be considered to have completely plateaued with the chiropractic and rehabilitative treatments, and passive modalities of manual therapy by 5/11/05.

With regard to the two units of ultrasound treatment performed on 3/18/05 and 3/28/05, this would have been during the acute phase of care and appropriate in this reviewer's opinion, given the diagnoses. Specifically, manual therapy is referenced in the Chiro Code Book and includes joint mobilization, manual traction for one or more regions, each 15 minutes, and again this would be found appropriate given the chart review.

Criteria/Guidelines utilized: TWCC rules and regulations.

ACOEM Guidelines, 2nd Edition, Chapter 12.

World Chiropractic Alliance Section 7 under Physical therapy modalities. Feine JS, Lund JP: An assessment of the efficacy of physical therapy and physical modalities for the control of chronic musculoskeletal pain. *Pain* 1997; 71:5 and

Clinical Guidelines for the Management of Acute Low back Pain.

Royal College of Practitioners. September 1996. Available at <http://www.rcgp.org.uk>

Clinical Practice Guideline Number 14. Acute low back Problems in Adults. Agent Health care policy and Research. December 1994.

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 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.