



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:
Richard Stephenson, D. C.
322 North Main St.
Bryan, TX 77803

MDR Tracking No.: M5-06-0070-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

Texas A & M University System, Box 25

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, "We are not a physical therapy office. We are a chiropractic office with a Doctor of Chiropractic that speaks with and checks the patient's progress after completing therapy on every visit to our office. If further treatment is needed, a change in therapy plan, or a worsening of the patient's condition, this visit is where these changes would be discussed. Therefore, an office visit is charged on every day of therapy."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC 60 form. Position summary (Table of Disputed Services) states, "Office visits are not medically necessary with every therapy session. Per Medicare, for codes that are defined as per 15 minutes or each 15 minutes, must document actual amount of time spent on a cumulative basis for the modality."

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)
4-5-05 – 5-11-05	CPT code 99213, 97124, 97530	<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 medical necessity issues.

Based on review of the disputed issues within the request, the 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 9-30-05 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 codes 97032, 97035, and 97124 from 4-5-05 – 5-11-05 were denied by the carrier as “150 - Per Medicare Physical Medicine and Rehabilitation Guidelines, for codes that are defined as per 15 minutes or each 15 minutes, must document the actual amount of time spent on a cumulative basis for the modality.” The requestor did not provide documentation to support delivery of services per Rule 133.307(g)(3)(A-F) for more than one unit of service on each date. Recommend reimbursement of one unite for each service as listed below:

CPT code 97032 – 13 Dates of service X \$19.00 = \$247.00

CPT code 97035 – 13 Dates of service X \$14.63 = \$190.19

CPT code 97124 – 10 Dates of service X \$26.63 = \$266.30

CPT codes 97530 on 5-6-05 was denied by the carrier as “150 – The payor deems the information submitted does not support this level of service.” The requestor did not provide documentation to support the criteria of this CPT Code which is: “Therapeutic activities, direct (one-on-one) patient contact by the provider (use of dynamic activities to improve functional performance), each 15 minutes.” Recommend no reimbursement.

CPT Code 99080-73 on 4-29-05 was denied as “150-The doctor shall file the work status report when the employee experiences a change in work status or a substantial change in activity restriction.” In accordance with Rule 129.5, the requestor submitted a copy of TWCC-73 for this date which did show a change in activity restriction. Recommend reimbursement of \$15.00.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 129.5, 133.308 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 entitled to additional reimbursement for the services involved in this dispute (\$718.49). The requestor is not entitled to a refund of the paid IRO fee.

Findings and Decision:

Donna Auby

11-30-05

Authorized Signature

Typed Name

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.

October 26, 2005

TDI, Division of Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-06-0070-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: IRO 5055

Dear Ms. ____:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him 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 Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in chiropractic, and is currently on the DWC Approved Doctor List.

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,

Gilbert Prud'homme
General Counsel
GP:dd

REVIEWER'S REPORT **M5-06-0070-01**

Information Provided for Review:
DWC-60, Table of Disputed Services, EOB's
Information provided by Requestor:
Office Notes 04/05/05 – 05/11/05
PT Notes 07/06/05 – 08/05/05

Radiology Report 05/12/05 – 05/24/05

Information provided by Respondent:

Correspondence

Designated Review

Physical Medicine:

Office Visit 05/10/05

Family Practice:

Office Notes 06/28/05 – 07/12/05

Clinical History:

Patient is a 58-year-old female who, on ____, was pushing a cart of stacked bagel boards when the cart began to fall, away from her. She grabbed it and yanked, attempting to keep it upright, but it fell over anyway and took her down with it. As a result of the incident, she injured her neck, upper back and right arm. Four days later, she sought care with a doctor of chiropractic who began chiropractic manipulation, physical therapy and rehabilitation.

Disputed Services:

Established patient office visits, level III (99213), therapeutic activities (97530), and massage (971240) for dates of service 4/5/05 through 5/11/05.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion the services in dispute as stated above were not medically necessary in this case.

Rationale:

Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include: (A) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (B) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. (C) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment. Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment.

In this case, there was no documentation of objective or functional improvement in this patient's condition. In fact, no treatment records for the dates of service in dispute were submitted for review. Rather, there was only an initial examination and report submitted by the treating doctor (dated 4/5/05), along with a subsequent examination and report by a referral doctor (dated 5/10/05). The claimant's objective status was not qualitatively or quantitatively measured since the subsequent reexamination (performed by a different doctor) utilized different methods and procedures. Therefore, the medical necessity is unsupported since it is impossible to determine what – if any – functional or subjective improvements were attained from the therapeutics rendered.