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: Eric A. VanderWerff, D.C. 615 N. O'Connor Road Suite 12 Irving, Texas 75061	MDR Tracking No.: M5-06-0137-01 Claim No.: Injured Employee's Name:
Respondent's Name and Address: TML Governmental Risk Pool Box 19	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: Per the table of disputed services "medically necessary"

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60
POSITION SUMMARY: For the medical fee dispute, Carrier asserts that Provider is not entitled to reimbursement because reductions were properly made according to the Fee Guideline and standards of medical/surgical practice and Provider unbundled services. For the retrospective medical necessity dispute, Carrier asserts that the healthcare services were not medically reasonable or necessary.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
09-13-04 to 11-09-04	97150 ($90.40 X 32 DOS) = $2,892.80 97140-59 ($34.13 X 32 DOS) = $1,092.16 98941 ($46.49 X 32 DOS) = $1,487.68 97112 ($37.05 X 32 DOS) = $1,185.60	☒ Yes ☐ No	$6,658.24

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.

Dates of service 08-23-04 through 09-09-04 per Rule 133.308(e)(1) were not timely filed and will not be a part of the review.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, Rule 134.202(c)(1)

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 $6,658.24_. 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 by:

		12-28-05
Authorized Signature		Date of Findings and Decision

Ordered by:

		12-28-05
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.

Envoy Medical Systems, LP

1726 Cricket Hollow
Austin, Texas 78758

Phone 512/248-9020 **Fax 512/491-5145**

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

December 6, 2005

Re: IRO Case # M5-06-0137 –01 ___

Texas Department of Insurance, Division of Workers' Compensation:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) by the Texas Department of Insurance and has been authorized to perform independent reviews of medical necessity for Division of Workers' Compensation cases). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that cases be assigned to certified IROs, this case was assigned to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic, who is licensed in Texas, and who has met the requirements for the Division of Workers' Compensation Approved Doctor List or who has been granted an exception from the ADL. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and the injured employee, the injured employee's employer, the insurance carrier, the utilization review agent, any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

<u>Medical Information Reviewed</u>

1. Table of disputed services
2. Explanation of benefits
3. MDR request 9/23/05, letter to IRO 10/19/05, Dr. VanderWerff
4. Treatment notes, Dr. VanderWerff
5. Review 9/3/04, Dr. Obermiller
6. MRI lumbar spine report 4/20/04
7. PPE Reports 8/3/04, 10/28/04
8. Report 10/21/04, Dr. Townsens
9. TWCC 69 forms and work status reports
10. DD evaluation 7/12/04, Dr. Reno
11. IME report 10/1/04, Dr. Reno
12. Behavioral evaluation 8/5/04
13. Report 7/6/04, Dr. Crowley
14. EMG/NCV report
15. Job description for patient
16. Initial report 7/19/04, and treatment plan, Dr. VanderWerff

History

The patient injured his lower back in ___ while carrying and picking up road barricades and putting them in a truck. He was initially treated by a medical doctor, and he then changed his doctor to his treating D.C. for chiropractic care. An MRI and EMG/NCV study were obtained. The patient has been treated with manipulation, neuromuscular re-education, therapeutic exercise and muscle stimulation.

Requested Service(s)

Group therapeutic procedures, manual therapy techniques, chiropractic manipulations, neuromuscular re-education 9/13/04 – 11/9/04

Decision

I disagree with the carrier's decision to deny the requested services.

Rationale

An adequate trail of conservative treatment was medically necessary. According to the patient, treatment from the first doctor was not effective in providing relief, and involved lifting weights. The first doctor's notes were not provided for this review. The first doctor's physical examination report, however, was provided, and it lacked subjective complaints and objective findings that would be necessary to determine MMI/IR. There were minimal reported palpatory findings, and minimal history or reference to the MRI of 4/20/04. Statements in the examination report are not consistent with the MRI report. The first doctor also stated that the patient was pain-free. A week and a half later, the D.C., in his initial report, noted several positive orthopedic tests, limited ROMs, VAS of 6, inability to sleep, walk, bend, sit and walk without severe pain. This indicated that the first doctor's treatment was not effective or that his examination was inadequate.

The D.C.'s documentation, however, was excellent, noting both subjective complaints, and objective findings to support the disputed services. The D.C. evaluated the diagnostic tests, patient history, PPE, job description and performed a proper and extensive examination to determine a proper treatment plan.

The treatment was also based on documented research from noted medical specialists related to disk injury, that may require up to 12 months to treat and heal. The D.C. treated the patient for only 3 ½ months, with documented 50-60% improvement. The evaluator contradicted himself in several instances in the RME of 9/3/04. The evaluator stated that he did not think that manipulations had been beneficial, but noted that the patient had gotten 50-60% better under the D.C.'s care. The evaluator placed the patient at MMI, yet he noted that the patient was getting better, both subjectively and objectively. Although pain levels, ROMs, strength and all symptoms of radiculopathy had improved and were continuing to improve under the D.C.'s care, the evaluator did not think future chiropractic treatment was medically necessary.

Based on the records provided for this review, with the patient's subjective complaints, objective findings, MRI interpretations and beneficial treatment, the patient's prognosis is fair to good, even though ESIs may be necessary to achieve complete relief of symptoms and return to work. In the 10/21/05 PPE report, VAS scores and improvement in function were noted. Another evaluator's report of 10/1/05 states disagreement with the placement of the patient at MMI, and the 0% IR rating that had been given.

The patient in his initial visit with the D.C. said that his condition had not been improving under the first doctor's care, but the records provided for this review indicated that the D.C.'s treatment was very beneficial. It was producing measurable, objective improvement, was directed at return to work, and was provided in the least intensive and most cost-effective setting. The records indicate that the MMI date was premature, as treatment was reasonable and effective at relieving symptoms and improving function.

This medical necessity decision by an Independent Review Organization is deemed to be a Workers' Compensation Division decision and order.

Sincerely,

_____

Daniel Y. Chin, for GP