



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: Southeast Health Services, Inc P O BOX 453062 Garland, Texas 75045	MDR Tracking No.: M5-06-0139-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Employers Insurance Company of Wausau Box 28	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DWC-60 dispute package. Position summary: Per the table of disputed services "These dates of service were denied as "per peer review". Please reconsider these charges based on the attached documentation and letter of medical necessity."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

No response received from Respondent

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
09-24-04 to 01-10-05	98941, 98943, 97032, 97016, 97110, 97012, 97124 and 99214-25	<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.

Based on review of the disputed issues within the request, the Medical Review 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 10-06-05, 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.

In regard to CPT code 97140-59 date of service 10-01-04 listed on the table of disputed services the carrier submitted information regarding payment in full of \$45.00 check number 11218211. Therefore, this service is no longer in dispute.

CPT code 97140-59 dates of service 10-13-04 and 10-20-04 denied with denial code N/X322 (documentation to substantiate this charge was not submitted or is insufficient to accurately review this charge). Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation supporting the services billed. Reimbursement recommended in the amount of **\$68.26 (\$34.13 X 2 DOS)**.

CPT code 97140-59 dates of service 10-04-04, 10-15-04 and 10-18-04 denied with denial code G/U687 (this procedure is mutually exclusive to another on this date of service. By clinical practice standards, this procedure should not or cannot be performed in the same treatment period). Per the 2002 Medical Fee Guideline code 97140 is considered a component procedure of code 98941 billed on the dates of service in dispute. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be considered justifiable if a modifier is used appropriately. A valid modifier was billed by the Requestor. Reimbursement is recommended in the amount of **\$102.39 (\$34.13 X 3 DOS)**.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, Rules 133.307(g)(3)(A-F) and 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 \$170.65. The Division finds that the requestor was not the prevailing party and is not entitled to a refund of the IRO fee. 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.

Ordered by:

12-07-05

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.



CompPartners Final Report



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

Claimant Name: _____
Texas IRO # : _____
MDR #: m5-06-0139-01
Social Security #: _____
Treating Provider: Jason Jodoin, DC
Review: Chart
State: TX
Date Completed: 12/05/05

Review Data:

- Notification of IRO Assignment dated 10/13/05, 1 page.
- Receipt of Medical Dispute Resolution Request dated 10/7/05, 1 page.
- Medical Dispute Resolution Request/Response dated 9/12/05, 1 page.
- Table of Disputed Services Form dated 1/10/05, 12/8/04, 12/6/04, 12/3/04, 12/1/04, 11/29/04, 11/26/04, 11/24/04, 11/22/04, 11/19/04, 11/17/04, 11/15/04, 11/12/04, 11/10/04, 11/8/04, 11/5/04, 10/20/04, 10/18/04, 10/15/04, 10/13/04, 10/4/04, 10/1/04, 9/24/04, 2 pages.
- Provider Federal Tax Identification Number and the License/Certification/Registration Number Request Form, 1 page.
- Explanation of Benefits for Dates of Service: 1/10/05, 12/8/04, 12/6/04, 12/3/04, 11/19/05-11/22/04, 11/24/04, 11/17/04, 11/15/04, 11/12/04, 11/10/04, 11/8/04, 11/5/04, 12 pages.
- Order for Payment of Independent Review Organization Fee dated 10/25/05, 1 page.
- Fax Cover Sheet dated 10/15/04, 1 page.
- Physician Order Form, 1 page.
- Follow-up Report dated 4/12/05, 1 page.
- Chiropractic Modality Review dated 9/29/04, 3 pages.
- Letter of Medical Necessity for Disputed Services dated 6/27/05, 3 pages.
- Lumbar Spine and Sacrum MRI Reports dated 9/2/04, 4 pages.
- Lower Extremity Electrodiagnostic Study Report dated 9/8/04, 3 pages.
- Consultation Report dated 9/29/04, 4 pages.
- Independent Medical Evaluation Report dated 10/1/04, 5 pages.
- Follow-up Report dated 12/28/04, 1 page.
- Exercises Log Sheets dated 12/10/04, 12/8/04, 12/7/04, 12/3/04, 12/1/04, 11/29/04, 11/26/04, 11/24/04, 11/22/04, 11/19/04, 11/17/04, 11/15/04, 11/12/04, 11/10/04, 11/8/04, 11/5/04, 11/1/04, 10/29/04, 10/27/04, 10/25/04, 9/10/04, 9/8/04, 9/7/04, 9/3/04, 3 pages.

- Active Rehabilitation Program Instructions, 3 pages.
- Neck (Cervical) Stretches Exercises Log Sheet dated 9/10/04, 9/8/04, 9/7/04, 9/3/04, 1 page.
- Active Rehabilitation Program Instructions, 3 pages.
- Exercises Log Sheets dated 9/1/04, 8/30/04, 8/27/04, 8/25/04, 8/23/04, 8/20/04, 8/18/04, 8/16/04, 8/13/04, 8/12/04, 1 page.
- Active Rehabilitation Program Instructions, 3 pages.
- Neck (Cervical) Stretches Exercises Log Sheet dated 9/1/04, 8/30/04, 8/27/04, 8/25/04, 8/23/04, 8/20/04, 8/18/04, 8/16/04, 8/13/04, 8/11/04, 1 page.
- Active Rehabilitation Program Instructions, 3 pages.
- Treatment Notes dated 4/12/05, 2/5/05, 1/25/05, 1/18/05, 1/10/05, 1/4/05, 12/27/04, 12/20/04, 12/14/04, 12/10/04, 12/8/04, 12/6/04, 24 pages.
- Examination and Range of Motion Forms dated 12/6/04, 2 pages.
- Treatment Notes dated 12/3/04, 12/1/04, 11/29/04, 11/26/04, 11/24/04, 11/22/04, 11/19/04, 11/17/04, 11/15/04, 11/12/04, 11/10/04, 11/8/04, 11/5/04, 11/1/04, 10/29/04, 30 pages.
- Examination and Range of Motion Forms dated 10/27/04, 2 pages.
- Treatment Notes dated 10/27/04, 10/25/04, 10/22/04, 10/20/04, 8 pages.
- Examination and Range of Motion Forms dated 10/20/04, 2 pages.
- Treatment Notes dated 10/18/04, 10/15/04, 10/13/04, 10/11/04, 10/8/04, 10/4/04, 10/1/04, 9/29/04, 9/27/04, 9/24/04, 9/23/04, 9/22/04, 9/21/04, 9/20/04, 9/17/04, 9/16/04, 9/15/04, 9/14/04, 9/13/04, 9/10/04, 9/8/04, 9/7/04, 9/3/04, 46 pages.
- Examination and Range of Motion Forms dated 9/3/04, 2 pages.
- Treatment Notes dated 9/1/04, 8/28/04, 8/27/04, 8/25/04/ 8/23/04, 8/20/04, 8/18/04, 8/16/04, 8/13/04, 8/11/04, 8/9/04, 8/6/04, 8/4/04, 8/2/04, 7/30/04, 7/29/04, 7/27/04, 34 pages.
- Examination and Range of Motion Forms dated 7/27/04, 2 pages.
- Treatment Notes dated 7/26/04, 7/23/04, 7/22/04, 7/21/04, 7/20/04, 7/19/04, 7/16/04, 7/15/04, 7/14/04, 7/13/04, 20 pages.
- Examination and Range of Motion Forms dated 7/13/04, 2 pages.
- Consultation and Palpatory Exam Notes dated 7/8/04, 1 page.
- Consultation Report dated 7/8/04, 3 pages.
- Follow-up Report dated 7/7/05, 1 page.
- Treatment Plan dated 12/8/04, 1 page.
- Texas Workers' Compensation Work Status Report dated 12/10/04, 1 page.
- Treatment Plan dated 9/27/04, 1 page.
- Initial Consultation Report dated 7/23/04, 3 pages.
- Follow-up Report dated 9/21/04, 1 page.
- Consultation Report dated 9/29/04, 4 pages.
- Treatment Plan dated 9/7/04, 1 page.
- Treatment Authorization Request dated 9/9/04, 1 page.
- Lumbar Spine and Sacrum MRI Reports dated 9/2/04, 4 pages.
- Treatment Notes dated 9/8/04, 2 pages.
- Lower Extremity Electrodiagnostic Study dated 9/8/04, 3 pages.
- Fax Cover Sheets dated 9/16/04, 12/10/04, 2 pages.

- Treatment Plan dated 10/25/04, 9/7/04, 7/29/04, 7/14/04, 4 pages.
- Fax Cover Sheet dated 7/14/04, 1 page.
- Return to Work Capabilities Form and Release: Medical Provider's Statement dated 7/14/04, 1 page.
- Fax Cover Sheet with Note dated 7/13/04, 1 page.
- Internal Radiologic Report dated 7/13/04, 1 page.
- Radiographic Report dated 7/13/04, 1 page.
- Physician Referral Form, 1 page.
- Common ICD-9 Codes Index, 2 pages.

Reason for Assignment by TDI/DWC: Determine the appropriateness of the previously denied chiropractic manipulations, electrical stimulation, vasopneumatic devices, therapeutic exercises, mechanical traction, massage, and office visit on 9/24/04 to 1/10/05.

Determination: UPHELD - previously denied chiropractic manipulations, electrical stimulation, vasopneumatic devices, therapeutic exercises, mechanical traction, massage, and office visit on 9/24/04 to 1/10/05.

Rationale:

Patient's age:

Gender:

Date of Injury: ____

Mechanism of Injury: While working as a driver for the _____ she had a slip and fall injury on some wet or oily surface outside of the Hotel.

Diagnoses: Lumbalgia, lumbago, herniated nucleus pulposus at L5-S1 and lumbar radiculopathy, and stage III adnexal mass diagnosed per ultrasound after positive mass found on sacrum MRI study of 9/2/04.

This patient was initially treated by Concentra Medical group with physiotherapy and medications from June 2004. A peer review from 9/29/04 indicated that this claimant had, by that date, received at least 30 visits with the chiropractor, Dr. Jodoin, and at least 12 sessions with Dr. Weddel, DC, as part of the same treatment plan. There was a letter of medical necessity dated 6/27/05 from Bryan Weddel, DC, in which he summarized the medical necessity for the disputed treatments.

On 8/11/04, this patient had completed at least 13 active rehabilitation visits with passive modalities, and then at least 13 active care treatments with land based stretching exercises combined with passive modalities. This was in addition to the physical therapy already received at Concentra.

On 9/2/04, she underwent an MRI of the lumbar spine, and this report indicated at L4-5 through S1 degenerative changes, at L4-5 an anterior annular tear was seen, a 12mm central left paramedian disc protrusion/extrusion at L5-S1 with posterior annular tear with mass effect upon the descending S1 nerve root on the left side, and mild narrowing of the neural exiting foramen on the ipsilateral side due to disc edema. There was facet arthrosis throughout the lumbar range associated with bilateral facet effusions at L3-4, L4-5 and L5-S1, indicating posttraumatic inflammatory and reparative change. There was also an MRI of the sacrum performed on 9/2/04,

which revealed a complex mass measuring 5cm by 3.5cm, which was identified as a cyst adenoma or cyst adenocarcinoma of the ovary that must be ruled out. This mass extended into

the retro uterine pre-rectal space, and ultrasound was recommended, plus serum CA-125 level was advised. No sacroiliitis or hernia was detected. At that point, this reviewer found that any further physiotherapy modalities and manipulations should not have been delivered due to contraindications with regard to her tumor regarding possible malignancy in the area she was receiving these modalities. Nevertheless, treatments continued ongoing without real measurable documented subjective or objective improvements found in the documentation, and at one point in October, escalated significantly to the point she underwent the epidural steroid injection treatments. Her symptoms waxed and waned.

On 9/8/05, an electromyogram (EMG) revealed findings suggestive of L5 or S1 radiculopathy. She was seen by Francisco Battle, MD, a neurological surgeon, on 9/29/04, and surgery was recommended for a 4/10 pain level with constant stabbing pain with intermittent radiation of shooting pain into the left lower extremity to the lateral thigh and calf and to the left ankle with numbness and tingling.

Daily notes from 9/29/04 from the chiropractors, revealed that she continued to receive ongoing chiropractic manipulation, myofascial release, the Matrix unit and passive cold packs. The actual billing also included electrical stimulation that was not indicated on the daily notes, except for on 11/19/04, it is checked off. She concurrently underwent a series of three ESI procedures with the last one in January 2005. These daily notes also indicated on 2/2/05 that she had been diagnosed by ultrasound of the pelvis, with a stage 3 tumor in the adnexal region and was requiring a hysterectomy as her brother who is her OB/GYN felt it was most likely malignant.

The current request is to determine the medical necessity for disputed items from 9/24/04 to 1/10/05 consisting of:

- 1) Manipulation 98941 and 98943. The medical necessity for these charges from 9/24/05 to 1/10/05 was not found with the provided information. There was no demonstrable measurable improvements with the manipulation provided previously from July 2004 to 9/24/04, a previous peer review found manipulation not medically necessary also from 9/13/04 and foremost, since the MRI was performed of the sacrum, this chiropractic provider continued to provide manipulation to the lumbar spine and sacroiliac joints despite findings consistent with a possible malignant tumor identified with strong indication of possible adenocarcinoma. Therefore, manipulation would be contraindicated after this timeframe of 9/2/04 for this patient, specifically, as it could increase the spread of the tumor. This is supported in the references below. Incidentally, one of the symptoms of adnexal mass is backache (low back pain).
- 2) Electrical stimulation 97032. The medical necessity for this passive care modality was not found for three reasons. First, from 9/24/04 to 1/10/05 there was no mark on the charge daily sheet from the treating doctor at all for these services having been done, but they appear on the disputed billing sheet except for one date, 11/19/04 it was found, but
- 3) the medical necessity was not proven for this charge for that date, regardless. Secondly, and foremost, electrical stimulation is a contraindication in cases of suspected malignancy or tumor, as with this patient after the sacrum MRI of 9/2/05. Thirdly, a significant amount of physiotherapy had been given without specific measurable and

demonstrable benefits. Therefore, it would not have been a medical necessity from 9/24/04 to 1/10/05.

- 4) Vasopneumatic devices 97016. The medical necessity for this passive modality lacks specific efficacy with regard to significant scientific literature for back pain. Secondly, it would seem that it would be a contraindication in regard to the tumor found on 9/2/04. The ACOEM Guidelines, Chapter 12 would not support this ongoing passive treatment or care with lack of benefit.
- 5) Therapeutic exercises 97110. The medical necessity for this ongoing therapeutic exercise was not found. This claimant had a significant amount of therapeutic exercises without true realized benefits from July 2004 to 9/24/04. Her symptoms persisted.
- 6) Mechanical traction 97012. The medical necessity was not found due to the contraindication for traction to an area with a suspected malignant tumor. Additionally, this traction had been given previously from at least July 2004 to 9/24/05 without documented demonstrable measurable subjective or objective improvements. The ACOEM Guidelines, Chapter 12 states on page 300, that traction has not been proved effective for lasting relief in treating low back pain and because evidence is insufficient to support using the vertebral axial decompression for treating low back injuries, it is not recommended.
- 7) Massage 97124. The medical necessity for massage for this particular patient was not found, again, due to the contraindications for massage for a patient that has suspected malignant tumor. Additionally, she had already received a significant trial of passive care massage without demonstrable measurable benefits and, therefore, no medical necessity was proved from 9/24/04 to 1/10/05.
- 8) Office visits 99214-25 on 9/24/04 to 1/10/05. The charge of 99214-25 was found only on the date of service 12/6/04. It was charged on the same date of a manipulation and therapy charge, and this is not appropriate. It appears that a re-exam was performed on 12/6/04, along with the regularly scheduled therapy, and this should have been a re-exam charge not an office visit charge. If there were other charges for office visit between 9/24/04 to 1/10/05, there was no documentation to support this charge and, therefore, the medical necessity was not found.

Criteria/Guidelines utilized: TDI/DWC rules and regulations.

ACOEM Guidelines, 2nd Edition, Chapters 6 and 12.

Physician Reviewers Specialty: Chiropractic

Physician Reviewers Qualifications: Texas licensed DC, BSRT, FIAMA Chiropractor and is also currently on the TDI/DWC ADL list.

CompPartners, Inc. hereby certifies that the reviewing physician or provider has certified that no known conflicts of interest exist 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.