



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	
Requestors Name and Address: Pain & Recovery Clinic of North Houston 6660 Airline Drive Houston, TX 77076	MDR Tracking No.: M5-06-0212-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Old Republic Insurance Company, Box 02	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include DWC-60 form, Explanations of Benefits, medical documentation and CMS 1500's. Position summary states, "In not properly handling our claims, the carrier may be in violation of Texas Labor Code sec. 415.002(11)(13).

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include DWC-60 form. Position summary states, "The carrier disputes that the provider has shown that the treatment underlying the charges was medically reasonable and necessary."

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)
10-1-04 – 11-24-04	CPT codes 99212, 97110, 97140, 97112	<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 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 additional reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

_____	Donna Auby	12-06-05
Authorized Signature	Typed Name	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.

October 31, 2005

TEXAS DEPT OF INS DIV OF WC
AUSTIN, TX 78744-1609

CLAIMANT: ____

EMPLOYEE: ____

POLICY: M5-06-0212-01

CLIENT TRACKING NUMBER: M5-06-0212-01

RE-AMENDED DECISION 12/1/05

AMENDED DECISION 11/10/05

Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers' Compensation has assigned the above-mentioned case to MRIoA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA has performed an independent review of the case in question to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has 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 decision before referral to the IRO.

Records Received:

FROM THE RESPONDENT:

Letter from Flahive, Ogden and Latson 9/9/05 2 pages
Letter from Flahive, Ogden and Latson 8/25/05 2 pages
Medical dispute resolution request/response 1 page
Provider forms 4 pages
Billing and payment history 3 pages
Table of disputed services 8 pages
Report of medical evaluation 6/30/04 1 page
Patient history 1/22/04 3 pages
Letter from Dr. Kalisky, MD 2/9/04 1 page
Designated doctor evaluation 2/27/04 5 pages
Report of medical evaluation 1 page
Letter from Dr. Hood, MD 4/10/04 4 pages
Designated doctor evaluation 6/25/04 5 pages
AIRS impairment detail report 2 pages
Letter from Dr. Hood, MD 7/19/04 3 pages
Imaging report for lumbar spine 3/17/05 1 page
Letter from Dr. Esses, MD 4/21/05 1 page

FROM THE STATE:

Notification of IRO assignment 9/28/05 1 page
DWC form 9/28/05 1 page
Medical dispute resolution/request response 1 page
Provider form 4 pages
Table of disputed services 6 pages
DWC explanation of benefits 6 pages

FROM THE REQUESTOR:

Patient information questionnaire 1 page
Employee's notice of injury/occupational disease and claim for compensation form 11/17/03 1 page
Work status report 11/17/03 1 page
Initial medical report 11/17/03 3 pages

Imaging report for lumbar spine 12/9/03 2 pages
Subsequent medical report 11/10/03 1 page
Initial evaluation notes 12/22/03 3 pages
Work status report 1/22/04 1 page
Subsequent medical report 1/22/04 2 pages
Lab report 1/22/04 2 pages
History and physical 1/22/04 2 pages
Nerve conduction study 1/26/04 1 page
PT progress note 2/2/04 2 pages
Work status report 2/24/04 1 page
Subsequent medical report 2/24/04 2 pages
Analysis of patient's condition 2/26/04 2 pages
Initial consultation note 2/26/04 3 pages
DWC form 2/10/04 1 page
Designated doctor evaluation 2/27/04 5 pages
Texas outpatient non-authorization recommendation 3/4/04 2 pages
UR appeals procedure 6/02 1 page
PT progress note 3/8/04 2 pages
Follow up note 3/18/04 2 pages
Report of medical evaluation 3/18/04 1 page
Texas outpatient appeal decision 3/23/04 2 pages
Work status report 3/23/04 1 page
Subsequent medical report 3/23/04 2 pages
Operative report 4/21/04 3 pages
Work status report 4/22/04 1 page
Subsequent medical report 4/22/04 2 pages
PT progress note 4/26/04 2 pages
Operative report 5/19/04 3 pages
Work status report 5/24/04 1 page
Subsequent medical report 5/24/04 2 pages
PT progress note 6/7/04 2 pages
Peer review dispute 6/17/04 2 pages
Follow up note 6/17/04 2 pages
Work status report 6/24/04 1 page
Subsequent medical report 6/24/04 2 pages
Designated doctor evaluation letter of clarification 6/25/04 1 page
CT lumbar spine post diskography 8/10/04 1 page
Designated doctor evaluation 6/25/04 5 pages
AIRS impairment detail report 2 pages
Functional capacity evaluation 6/30/04 25 pages
Response to peer review 6/29/04 2 pages
PT progress note 7/7/04 2 pages
Letter from Dr. Fogel, MD 7/8/04 1 page
New patient evaluation 7/8/04 3 pages
Work status report 7/21/04 1 page
Subsequent medical report 7/21/04 1 page
Texas outpatient authorization recommendation 7/22/04 2 pages
Report of medical evaluation 7/28/04 1 page
Medical report 7/28/04 3 pages
Designated doctor dispute 7/29/04 2 pages
Report of medical evaluation 8/4/04 1 page
Letter from DWC 8/5/04 2 pages
CT lumbar spine post diskography 1 page
Operative report 8/10/04 2 pages
Work status report 8/24/04 1 page
Subsequent medical report 8/24/04 2 pages
PT progress note 8/30/04 2 pages
Patient summary notes 9/13/04 1 page
Work status report 9/22/04 1 page
Subsequent medical report 9/22/04 2 pages
Patient history 10/4/04 2 pages
Texas outpatient authorization recommendation 10/13/04 1 page
Patient assessment/physical examination notes 10/22/04 4 pages

Work status report 10/26/04 1 page
Subsequent medical report 10/26/04 2 pages
PT progress note 10/26/04 2 pages
Texas outpatient non authorization recommendation 10/29/04 2 pages
Texas utilization review reconsideration & appeals process 5/03 1 page
Follow up assessment 11/5/04 1 page
Follow up assessment 11/19/04 1 page
Work status report 11/29/04 2 pages
Follow up assessment 12/10/04 1 page
Lumbar facet block report 12/16/04 3 pages
Work status report 12/28/04 1 page
Subsequent medical report 12/28/04 2 pages
Lumbar facet block report 12/30/04 3 pages
Subsequent evaluation 1/3/05 2 pages
Follow up note 1/7/05 1 page
Lumbar facet block report 1/20/05 3 pages
Work status report 1/25/05 1 page
Texas outpatient authorization recommendation 1/17/05 1 page
Lumbar facet block report 1/27/05 3 pages
Follow up note 1/28/05 1 page
Mental health evaluation 2/21/05 6 pages
Subsequent medical report 2/23/05 2 pages
Letter from Dr. Esses, MD 2/24/05 3 pages
Work status report 2/23/05 1 page
Texas outpatient authorization recommendation 3/3/05 1 page
Texas outpatient non authorization recommendation 3/10/05 2 pages
Letter from Dr. Esses, MD 3/17/05 1 page
Imaging report for lumbar spine 3/17/05 1 page
Work status report 3/23/05 1 page
Subsequent medical report 3/23/05 2 pages
Letter from Dr. Esses, MD 3/31/05 2 pages
Concurrent report chronic pain management program 4/5/05 3 pages
Texas outpatient authorization recommendation 4/8/05 1 page
Work status report 4/18/05 1 page
Subsequent medical report 4/18/05 2 pages
Letter from Dr. Esses, MD 4/21/05 1 page
Work status report 5/17/05 1 page
Subsequent medical report 5/17/05 2 pages
Notification of mishandling of a workers compensation claim 5/19/05 3 pages
Diagnostic and treatment history 4 pages
Violation referral form 3 pages
Violation referral submitted 2 pages
Referral acknowledgement 6/1/05 1 page
Patient history and physical 6/2/05 3 pages
History and physical 6/2/05 3 pages
Functional capacity assessment 6/13/05 12 pages
Work hardening assessment psychosocial history 6/14/05 3 pages
Work status report 6/15/05 1 page
Subsequent medical report 6/15/05 2 pages
Letter from Dr. Martinez, DC 6/22/05 3 pages
Work status report 6/22/05 1 page
Subsequent medical report 6/23/05 2 pages
Texas outpatient non authorization recommendation 6/27/05 2 pages
Notice of returned correspondence 6/30/05 1 page
Request for reconsideration 7/5/05 3 pages
Texas outpatient authorization recommendation 7/8/05 2 pages
Texas outpatient reconsideration decision 7/12/05 5 pages
Group session monitoring form 7/15/05 1 page
Work capacity evaluation 6/13/05 8 pages
Letter from Dr. Martinez, DC 7/22/05 2 pages
Texas outpatient authorization recommendation 7/27/05 2 pages
Lumbar radiofrequency lesioning 3 pages
Work status report 8/2/05 1 page

Subsequent medical report 8/2/05 2 pages
Group session monitoring form 8/3/05 1 page
Group session monitoring form 8/12/05 1 page
Letter from Dr. Martinez, Dc 8/12/05 2 pages
Work capacity evaluation 8/12/05 8 pages
Operative report 8/18/05 3 pages
Texas outpatient non-authorization recommendation 8/19/05 3 pages
Texas utilization review reconsideration and appeals procedure guidelines 5/03 1 page
Request for reconsideration 8/23/05 2 pages
Texas outpatient reconsideration decision 8/29/05 3 pages
Texas outpatient reconsideration decision 8/29/05 2 pages
Work status report 9/1/05 1 page
Group session monitoring form 9/1/05 1 page
Group session monitoring form 9/8/05 1 page
Group session monitoring form 9/21/05 1 page
Work status report 10/6/05 1 page

Summary of Treatment/Case History:

The patient is a 47 year old male with a work-related injury to his lower back suffered on _____. MRI of the lumbar spine revealed disc bulging at L3-S1. He carries a working diagnosis of lumbar disc disease with spondylolisthesis, deconditioning, adjustment disorder with depressed mood and mixed anxiety, pain disorder associated with both psychological factors and a generalized medical condition. EMG revealed evidence radiculopathy in the lumbar area. CT with myelogram revealed evidence of lumbar tears at multiple levels and broad-based large disc protrusion at L3-4. Treatment has included PT, lumbosacral facet injections, lumbar-caudal ESI's, work-hardening, medication management, chronic pain management program.

Questions for Review:

1. Item(s) in dispute: Office visits, #99212, therapeutic exercises- #97110, manual therapy technique- #97140 and neuromuscular re-education -#97112.

DO NOT REVIEW ITEMS ON TABLE MARKED FEE

Explanation of Findings:

The disputed services mentioned on the DWC form are not supported from the available documentation for the reasons given below:

There is no available documentation to support any of the services mentioned on the DWC form.

Conclusion/Partial Decision to Certify:

1. Item(s) in dispute: Office visits, #99212, therapeutic exercises- #97110, manual therapy technique- #97140 and neuromuscular re-education -#97112.

All CPT codes mentioned under "V" on the DWC forms (#99212, #97110, #97112, and #97140) are not supported by the available documentation.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:

- The available medical documentation
- AMA CPT Coding Guidelines
- The Official Disability Guidelines
- Medical-based literature

References Used in Support of Decision:

- * 2005 American Medical Association Current Procedural Technology, Standard Edition
- * North American Spine Society. Herniated Disk. Lagrange(IL). 2000. 104 pages(205 references)
- * The Official Disability Guidelines, 10th Edition, Treatment Protocols, Lower Back Pain

The physician providing this review is board certified in Physical Medicine & Rehabilitation. The reviewer holds additional certification in Pain Management.

The reviewer is also a member of the Physiatrix Association of Spine, Sports and Occupational Rehabilitation. The reviewer is active in research and publishing within their field of specialty. The reviewer currently directs a Rehabilitation clinic. MRIoA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the DWC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

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The written opinions provided by MRIOA represent the opinions of the physician reviewers and clinical advisors who reviewed the case.

These case review opinions are provided in good faith, based on the medical records and information submitted to MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations.

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