



**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

<b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor=s Name and Address:	MDR Tracking No.: M5-06-0309-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Liberty Mutual Insurance Company Box 28	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

#### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION: DWC-60 dispute package  
 POSITION SUMMARY: Per the table of disputed services "Necessary".

#### PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

No response submitted by Respondent

#### PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
12-13-04	95851 (\$26.40 X 1 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$105.27
01-06-05, 01-19-05 and 02-14-05	95851 (\$26.29 X 3 DOS)		
01-10-05	97110 (\$34.93)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$34.93
01-10-05	97113 (\$80.10 X 1 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$400.50
01-26-05 and 02-03-05	97113 (\$160.20 X 2 DOS)		
01-14-05 and 02-24-05	95831 (\$36.23 X 2 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$72.46
03-16-05 and 05-23-05	99213 (\$65.44 X 2 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$130.88
12-14-04 to 05-23-05	97022, 97110*, 99213*, 97113*, 99354, 95831*, 96004	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
	Note: * Indicates not medically necessary with the exception of the dates of service listed above		
		<b>TOTAL</b>	\$744.04

**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 **majority** of 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 11-14-05, 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 code 97022 date of service 01-31-05 is listed on the table of disputed services. The Respondent provided information that payment in the amount of \$18.35, which is the MAR, was made via check number 11454221 on 09-27-05. No additional reimbursement is recommended.

CPT code 99354 date of service 02-16-05 was denied by the carrier with denial code "G"(this procedure is incidental to the primary procedure, and does not warrant separate reimbursement). The IRO reviewer determined that this service was not medically necessary, therefore no reimbursement was recommended. Per Rule 133.308(p)(5) an IRO decision is deemed to be a Commission decision and order.

CPT code 97113 and 99213 date of service 01-31-05 and codes 97545-WH and 97546-WH date of service 06-29-05 were listed on the table of disputed services. Verification was made with the Requestor that payment was received, therefore, the services are no longer in dispute.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 133.308 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 \$744.04. 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:

03-06-06

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**

January 16, 2006

**Re: IRO Case # M5-06-0309 -01 \_\_\_\_\_ Amended 2/9/06**

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, Rule 133.308 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 physician who is Board Certified in Physical Medicine and Rehabilitation, 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:

#### Medical Information Reviewed

1. Table of disputed services
2. Explanation of benefits
3. Position statement for IRO, Dr. Peterson
4. Preliminary Chiropractic modality review 4/1/05
5. Operative report 9/20/04 and follow up note 9/27/04, Dr. Hanssen
6. Follow up notes 10/11/04 – 7/6/05, Dr. Chouteau
7. IR Report 7/21/05, Dr. Mikeworth
8. Isometric test report 2/24/05
9. Clinical notes 12/31/04 – 5/23/05 Summit Rehabilitation Centers
10. ERGOS evaluation report 7/8/05
11. Electrodiagnostic test report 1/18/05

#### History

The patient is a 47-year-old male who injured his ankle in September 2004. He was hospitalized, and one week later, on 9/20/04 the patient underwent open reduction and internal fixation left medial and lateral malleolus. The patient was placed in a non-weight bearing cast. The patient was started in physical therapy on 12/13/04. He underwent electrodiagnostic testing on 1/18/05, and there were abnormalities on that study that suggested left L5 or S1 radiculopathy. Physical therapy continued through 5/23/05. The patient was determined to be at MMI on 7/21/05 and was assigned a seven percent whole person impairment.

#### Requested Service(s)

95851 ROM, 97022 whirlpool, 97110 therapeutic exercises, 99213 office visit, 97113 aquatic therapy, 95831 muscle testing, 99354 prolonged physical services, 96004 analysis. 12/13/04 – 6/29/05.

#### Decision

I agree in part and disagree in part with the carrier's decision to deny the requested services.

#### Rationale

I disagree with the denial of the requested codes 95851 and 95831 (except on 1/26/05). It is reasonable and necessary to periodically measure ROM and muscles during a physical therapy rehabilitation program. Testing frequency should not be more than every two weeks.

I agree with the denial of services on 12/14/04, 1/7/05, 1/24/05, and 1/25/05. Current guidelines recommend physical therapy no more than three times per week on non-consecutive days. The patient underwent physical therapy on 12/13/04, 1/6/05 and 1/24/05, making the requested dates consecutive days, and not medically necessary. The service on 1/24/05 is not recorded or explained, and its medical necessity is not documented.

I disagree with the denial of 97113 on 1/10/05, 1/26/05, 2/3/05, and 97110 on 1/10/05. The patient had undergone surgery and immobilization. It is reasonable and necessary to undergo an eight-week physical therapy program. The main stay of the physical therapy would include active exercises for 45 minutes per session, three times per week. These services fall into currently accepted guidelines and are reasonable and necessary.

I agree with the denial of 97022 and 99213 on 1/10/05, 1/26/05, 2/3/05, and 95831 and 96004 on 9/26/05. These treatment services exceed the above-stated guidelines limiting therapy services to 45 minutes each, three times per week. The medical necessity for exceeding current guidelines is not documented in the records provided for this review. Furthermore, it is not medically necessary to perform re-evaluation at every scheduled physical therapy session.

I disagree with the denial of 99213 on 3/16/05 and 5/23/05. Follow up office visits with the treating doctor prior to the

determination of MMI is appropriate and medically necessary to follow recovery from injury.

I agree with the denial of 99213 on 1/25/053/30/05. The patient had been seen just two weeks prior to these dates and the office visit note do not document that anything substantial occurred. The medical necessity of so frequent an evaluation is not documented in the records provided.

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

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 a 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 the 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 must be received by the Division of Workers' Compensation, chief Clerk of Proceedings, within then (10) days of your receipt of this decision.

Sincerely,

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Daniel Y. Chin, for GP