



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

<b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: David Rabbani, D.C. 7447 Harwin Suite 180 Houston, Texas 77036	MDR Tracking No.: M5-06-0314-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:  Box 17	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 table of disputed services "documented and necessary".

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

Response to DWC-60 package. Position summary: These charges were denied as not medically necessary according to the recommendation of a peer review.

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
01-17-05 to 01-21-05	Work hardening program	<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.

**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 reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

\_\_\_\_\_  
Authorized Signature

12-07-05

\_\_\_\_\_  
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.**

# 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 2, 2005

Re: IRO Case # M5-06-0314 -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, 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 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:

### Medical Information Reviewed

1. Table of disputed services
2. Explanation of benefits
3. Letter to IRO from carrier 10/21/05
4. Letter to IRO 11/7/05, Dr. Rabbani
5. RME 10/11/04, Dr. Novak
6. Review 2/22/05, Dr. Hamby
7. Group psychotherapy notes, Dr. H
8. Treatment and exam reports, Dr. Rabbani
9. Plain film cervical spine reports 5/5/05
10. MRI cervical and thoracic spine reports 6/18/04
11. Reports 2004, Dr. Doctor
12. Letter 10/19/04, Dr. Rabbani
13. Reports 10/21/04, 12/6/04, Dr. Fitzgerald
14. Bone scan report 11/30/04
15. CT scan report 11/30/04
16. Report 1/31/05, Dr. Rabbani
17. FCE report 12/21/04
18. WH notes
19. Report 4/22/05, Dr. C
20. Report 2/11/05, Dr. Wimberly

### History

The patient injured his neck on \_\_\_ when he fell off a ten-foot pole and hit his head and neck. He began chiropractic treatment on 4/1/04. On 5/26/04 the patient was essentially asymptomatic with negative objective findings, and he was released to return to work without restrictions. On 6/14/04 the patient returned to his D.C. with progressive deterioration of his condition. He was referred to a pain management specialist for epidural steroid injections on 7/27/04 and 8/25/04. The injections failed to be of benefit. The patient was then referred to a neurologist, who ordered a CT scan and bone scan, which were essentially negative. A work hardening program was recommended prior to return to work. The work hardening program started on 12/27/04, but because of poor response to the program, it was terminated four weeks later. The necessity of the final week of the work hardening program is in dispute.

### Requested Service(s)

Work hardening program 1/17/05 – 1/21/05

### Decision

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

### Rationale

The patient had an extensive trial of conservative treatment prior to the dates in this dispute, without relief of symptoms or improved function. The documentation for the disputed dates relating to subjective complaints and objective findings does not support treatment. The patient had failed to respond to treatment, including the work hardening program, indicating that treatment may have been inappropriate. Based on the diagnostic test reports provided for this review, the patient should have responded to appropriately administered treatment.

Dr. Fitzgerald's report of 10/21/04 noted that the patient's strength was 5/5 throughout both extremities, sensation to pinprick was intact, DTR's were 2+ bilaterally, and cervical spine ROM was full, but with pain. These findings, along with a negative Spurling's orthopedic test, support a better response to and prognosis for appropriately administered chiropractic treatment and work hardening program. The efficacy of treatment and the handling of the WH program is questionable. The patient was morbidly obese at 5'10" and 303 pounds, and was severely deconditioned, and this surely aided in the failure to respond to treatment, with the obesity never addressed in the D.C.'s treatment plan. Dr. Cotler noted in a 4/22/05 report that the patient should consult his family physician, and possibly a bariatric surgeon for his obesity. The obesity resulted in poor posture and body mechanics and deconditioning. Based on the records reviewed, this was a significant reason why treatment failed, yet it was not addressed.

Given the patient's limited response to treatment, a work hardening program was not medically indicated. The need for such programs is based on a good response to past treatment, which in this case did not occur. The continued use of failed conservative therapy does not establish a medical rationale for additional non-effective therapy, which in this case is the disputed services. Based on the records provided for this review, the patient's expected restoration potential was insignificant in relation to the extent and duration of therapy services required to achieve such potential. Thus the disputed services were not reasonable and necessary.

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

Sincerely,

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Daniel Y. Chin, for GP