



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: Texas Imaging and Diagnostic Center 3840 West Northwest Highway Suite 400 Dallas, Texas 75220	MDR Tracking No.: M5-06-0349-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Federal Insurance Company Box 17	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: No position summary submitted by the Requestor

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

DOCUMENTATION SUBMITTED: Response to DWC-60  
POSITION SUMMARY: No position summary submitted by the Respondent

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
04-18-05	95861, 95904, 95900 and 95934	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$908.35

#### 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.

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

28 Texas Administrative Code Sec. 133.308 and 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 additional reimbursement in the amount of \$908.35. 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.

Ordered by:

12-27-05

\_\_\_\_\_  
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** ACCREDITED  
INTERNAL REVIEW

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

**Claimant Name:** \_\_\_\_\_  
**Texas IRO # :** \_\_\_\_\_  
**MDR #:** M5-06-0349-01  
**Social Security #:** \_\_\_\_\_  
**Treating Provider:** Tom Rubio, D.C.  
**Review:** Chart  
**State:** TX  
**Amended Date:** 12/23/05

**Review Data:**

- Notification of IRO Assignment dated 11/8/05, 1 page.
- Receipt of Medical Dispute Resolution Request dated 11/8/05, 1 page.
- Official Order to Attend Examination Appointment dated 3/7/05, 1 page.
- Medical Dispute Resolution Request/Response dated 10/17/05, 1 page.
- Provider Federal Tax Identification Number and the License/Certification/Registration Number Request Forms, 1 page.
- Table of Disputed Services Form dated 4/18/05, 2 pages.
- Report of Medical Evaluation dated 5/5/05, 1 page.
- Referral Authorization Request, 1 page.
- Referral Information, 1 page.
- Fax Cover Sheet dated 2/2/05, 1 page.
- Request for Consultation, 1 page.
- Assessment Report dated 12/6/04, 4 pages.
- Letter for Invoice, 1 page.
- Explanation of Benefits dated 10/5/05, 1 page.
- Health Insurance Claim Form dated 4/25/05, 1 page.
- Patient Authorization and Demographics, 1 page.
- Initial Report dated 12/5/04, 1 page.
- Medical Dispute Request dated 10/11/05, 1 page.
- Medical Dispute Resolution Request/Response, 1 page.
- Provider Federal Tax Identification Number and the License/Certification/Registration Number Request Forms, 1 page.
- Explanation of Reimbursement Resubmission dated 4/25/05, 3 pages.
- Letter of Medical Necessity dated 8/3/05, 1 page.
- Letter dated 6/28/05, 1 page.
- Concurrent Review dated 6/27/05, 3 pages.
- Reconsideration Request dated 6/16/05, 2 pages.
- Request for a Benefit Review Conference dated 5/24/05, 1 page.
- Denial Letter dated 5/17/05, 2 pages.
- Fax Cover Letter dated 5/6/05, 1 page.
- Letter dated 5/6/05, 1 page.
- Texas Worker's Compensation Work Status Report dated 5/5/05, 1 page.
- Report of Medical Evaluation dated 5/2/05, 1 page.

- Texas Worker's Compensation Work Status Report dated 4/25/05, 1 page.
- Fax Cover Letter dated 4/18/05, 1 page.
- Texas Imaging and Diagnostic Center Patient Information dated 4/18/04, 1 page.
- Electromyographic Report dated 4/18/05, 4 pages.
- Left Shoulder MRI dated 4/14/05, 1 page.
- Letter dated 4/15/05, 1 page.
- Pre-authorization Review dated 4/13/05, 2 pages.
- Notice of Concurrent Case Assignment dated 4/7/05, 2 pages.
- Fax Cover Letter dated 4/5/05, 1 page.
- Feasibility for Return to Work Summary and Recommendation dated 4/5/05, 9 pages.
- Fax Cover Letter/Request for Additional Medical Information dated 4/4/05, 1 page.
- Designated Doctor Evaluation Report dated 3/21/05, 3 pages.
- Texas Worker's Compensation Work Status Report dated 3/11/05, 1 page.
- Letter Regarding Designated Doctor Appointment dated 3/9/05, 2 pages.
- Texas Worker's Compensation Work Status Report dated 2/23/05, 1 page.
- Consultation Report dated 2/16/05, 4 pages.
- Initial Mental Health Status Evaluation Report dated 2/15/05, 3 pages.
- Texas Worker's Compensation Work Status Report dated 1/28/05, 1 page.
- Lumbar Spine MRI dated 1/6/05, 1 page.
- Referral Authorization Request dated 1/4/05, 1 page.
- Texas Worker's Compensation Work Status Report dated 1/5/05, 1 page.
- Letter dated 1/5/05, 2 pages.
- Employee's Notice of Injury or Occupational Disease and Claim for Compensation dated \_\_\_\_\_, 1 page.
- Fax Cover Sheet dated 12/4/04, 1 page.
- Initial Consultation Note dated 12/14/04, 4 pages.
- Texas Worker's Compensation Work Status Report dated 12/14/04, 1 page.
- Rubio Chiropractic Assignment of Benefits dated 12/14/04, 1 page.
- Physical Therapy Evaluation Summary dated 12/9/04, 1 page.
- Texas Worker's Compensation Work Status Report dated 12/8/04, 1 page.
- Statement of Services dated 12/8/04, 1 page.
- Re-check Report dated 12/8/04, 1 page.
- Preference Card dated 12/8/04, 3 pages.
- New Patient Evaluation Report dated 12/6/04, 1 page.
- Statement of Services dated 12/6/04, 1 page.
- Preference Card dated 12/6/04, 3 pages.
- Texas Worker's Compensation Work Status Report dated 12/6/04, 1 page.
- Prescriptions dated 12/6/04, 1 page.
- Radiology Report dated 12/6/04, 1 page.
- Patient's Authorization for Medical Release (Spanish form) dated 12/6/04, 2 pages.
- Drug Screen/Physical Exam (Spanish form) dated 12/6/04, 1 page.
- Treatment and Progress Notes (Two-sided Sheets) dated 5/23/05, 5/5/05, 5/4/05, 5/2/05, 4/29/05, 4/28/05, 4/25/05, 4/22/05, 4/21/05, 4/19/05, 4/15/05, 4/13/05, 4/12/05, 4/8/05, 4/6/05, 4/1/05, 3/30/05, 3/28/05, 3/24/05, 3/23/05, 3/22/05, 3/18/05, 3/15/05, 3/11/05, 3/9/05, 3/7/05, 3/4/05, 3/3/05, 3/1/05, 2/25/05, 2/24/05, 2/23/05, 2/18/05, 2/17/05, 2/15/05, 2/11/05, 2/9/05, 2/7/05, 2/4/05, 2/2/05, 1/31/05, 1/28/05, 1/26/05, 1/24/05, 1/21/05, 1/20/05, 1/19/05, 1/14/05, 1/12/05, 1/10/05, 1/7/05, 1/5/05, 1/3/05, 12/30/04, 12/29/04, 12/27/04, 12/23/04, 12/21/04, 12/20/04, 12/17/04, 12/16/04, 12/15/04, 62 pages.

**Reason for Assignment by TDI/DWC:** Determine the appropriateness of the previously denied needle electromyography, sensory, each nerve, nerve conduction – no F wave, and H reflex study, date of service of 4/18/05.

**Determination: REVERSED** - previously denied needle electromyography, sensory each nerve, nerve conduction – no F wave, and H reflex study, date of service of 4/18/05.

**Rationale:**

**Patient's age:** \_\_\_\_\_

**Gender:** \_\_\_\_\_

**Date of Injury:** \_\_\_\_\_

**Mechanism of Injury:** Lifting a foldaway bed and felt pain to her low back, mid back, and left shoulder.

**Diagnoses:** Lumbar intervertebral disc (IVD) syndrome, bilateral L5 radiculopathy and a mild bilateral peroneal nerve axonal neuropathy (per 4/18/05 EMG/NCV), lumbar disc displacement, lumbar radiculitis, lumbago.

The patient was evaluated by her chiropractor, Tom Rubio, on 12/14/05, and found to have weakness in hip flexion of 4/5 bilaterally, weakness in leg extension of 3/5 on the right and 4/5 on the left, as well as weakness during foot eversion at 4/5 on the right, with severely restricted lumbar range of motion and full cervical range of motion. She denied any bowel or bladder symptoms.

The patient had an MRI of the lumbar spine on 1/6/05, which revealed a left retro peritoneal cystic fluid collection which may represent a large left inferior renal cyst measuring 9.6 cm by 8.1 cm by 7.5 cm, and she was recommended for an ultrasound for further evaluation on a non-industrial basis. She had a 2-3 mm posterocentral disc protrusion with no effacement of the cord, and disc desiccation with mild facet tropism. Documentation revealed that this patient first started having bilateral lower extremity pain on or around \_\_\_\_\_. There was a designated doctor examination on 3/21/05, which disclosed she had reached maximum medical improvement (MMI) and claimed the symptoms don't fit with the findings, and that she had normal reflexes and sensation, with a total body impairment rating of 7% as determined by Raphael Emmanuel, MD.

The patient had an MRI of the left shoulder that revealed findings of tenosynovitis involving the long head of the biceps tendon, with no other abnormality on 4/14/05. The Functional Capacity Evaluation (FCE)-psychometric results on 4/5/05 did reveal a positive Waddell's sign in one of the five categories. The range of motion test in lumbar flexion was not valid, and there was measured muscle strength at 4/5 in the bilateral quadriceps, left anterior tibialis, and bilateral hamstrings and gluteal maximus, and the left gastrocnemius that was valid. The patient also had poor effort displayed on her dynamic lifting portion of this test. Her evaluation with Robert Freedenfeld, PhD, for the Initial Mental Health Status Evaluation was performed on 2/15/05, and the patient was found to have significant depression and anxiety issues with poor coping skills. Her GAF score was 55.

The patient was examined by a neurologist, Dr. Francisco Batlle, on 2/16/05, who documented that the patient stated that she was still having low back pain which was described as sharp throbbing pain, with radiation into the bilateral lower extremities, the right side greater than the left, with associated numbness and tingling in a non-dermatomal distribution. She was post physical therapy and chiropractic with no improvements in her symptomology. Her pain level was 8/10 on that date, with worsening of symptoms after sitting, standing, coughing, sneezing or Valsalva's maneuvers. Her EMG/NCV on 4/18/05, disclosed a mild bilateral peroneal nerve axonal neuropathy, and a bilateral L5 radiculopathy, more prominent on the left side as interpreted by Usha Walia, MD. The patient did not report leg symptoms until 1/20 /05, and was consistent with these complaints, as well as 4/5-muscle weakness noted with some constant pain into the legs.

The current request is to determine the medical necessity for the items in dispute, on the date of service 4/18/05 with charges of 95861 needle electromyography, 95904-(2-units) sensory, each nerve, 95900-(4 units) nerve conduction-no F wave, 95934 -(6 units) H-reflex study. After careful review of all of the documents provided, it is determined that the testing was indeed a medical necessity to correctly diagnose her persistent and constant leg complaints after 1/20/05, which also had weakness bilaterally, and which had been documented repeatedly. The ACOEM Guidelines, Chapter 12, pages 303-304 do support this certification for this study at this time, with the provided information. It states electromyography, including H-reflex tests, may be useful to identify subtle, focal neurologic dysfunction in patients with low back symptoms lasting more than three to four weeks.

**Criteria/Guidelines utilized:** TDI/DWC rules and regulations.  
ACOEM Guidelines, 2<sup>nd</sup> Edition, Chapter 12, p. 303 and 304, table 12-7.

[www.betterhealth.vic.gov](http://www.betterhealth.vic.gov): Article: Kidney problems-polycystic kidney disease. (Treatment options include surgery-“sometimes surgery can help to shrink the cysts to relieve back and leg pain”.)

**Physician Reviewers Specialty:** Chiropractic

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