



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.: M5-06-0382-01
Dr. Patrick R. E. Davis 115 W. Wheatland Rd. Ste 101 Duncanville, TX 75116	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:  Benchmark Insurance Company, Box 17	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

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

Documents include the DWC 60 form, several peer reviews, Explanations of Benefits, and CMS 1500's. No medical documentation was provided. Position summary (Table of Disputed Services) states, "Documentation supports medical necessity."

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

Documents include the DWC 60 response, Explanations of Benefits, and CMS 1500's. Position summary (Table of Disputed Services) states, "Documentation does not support CPT code and/or billed." and "Unnecessary."

#### 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)
12-29-04	3 units of 97530	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$112.74
11-24-04 – 1-20-05	CPT codes E0745, E1399, 97112, 97116, 97530 (except as noted above), 98943, 97140	<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 majority of the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is \$112.74.

Based on review of the disputed issues within the request, the 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 11-10-05 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.

Regarding CPT code 99080 on 11-11-04: Per Rule 133.307 (e)(2)(A) a copy of all medical bills as originally submitted to the carrier for reconsideration in accordance with 133.304 must be submitted to support the fee issues of a dispute. No medical bill was submitted. Recommend no reimbursement.

HCPCS code E1399 on 12-16-04 was denied by the carrier as "G-Unbundling." The 2002 MFG states, "Determine if an alternative HCPCS Level II code better describes the equipment being reported. This code should be used only if a more specific code is unavailable. No medical notes were submitted therefore, the Division is unable to determine if there is a better HCPCS code. Recommend no reimbursement.

The remaining services in this dispute were denied by the carrier as "N – not appropriately documented or, on 12-15-04, as "W1-Documentation does not support the CPT code/units billed." The requestor did not provide medical documentation to support delivery of services per Rule 133.307(g)(3)(A-F). Recommend no reimbursement.

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

28 Texas Administrative Code Sec. 133.304, 133.307 (e)(2)(A), 133.308 and 134.202(c)(1).

**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 a refund of the paid IRO fee. The Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute in the amount of \$112.74. 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.

Findings and Decision and Order by:

Donna Auby

12-22-05

Authorized Signature

Typed Name

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.**



Specialty Independent Review Organization, Inc.

Amended Report of 12/16/05

December 7, 2005

DWC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient: \_\_\_\_  
DWC #:  
MDR Tracking #: M5-06-0382-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The TDI-Division of Workers' Compensation has assigned this case to Specialty IRO for independent review in accordance with DWC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered 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.

This case was reviewed by a licensed Chiropractor. The reviewer is on the DWC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_\_ was injured while employed with Oil Work, LP on \_\_\_\_\_. He was involved in a motor vehicle collision. The records indicate he suffered injuries to his neck, mid back, low back and left knee. He reportedly presented to a Prima Care office a few times when he decided to change treating doctors to Patrick Davis, DC. Neurodiagnostic testing was negative on 7/26/04 as performed by R. Morrison, MD. He underwent arthroscopy left knee surgery on 10/14/04 during which an excision of loose bodies and a patellar chondroplasty were performed. Starting on 11/1/04 he began a post surgical rehabilitation with the treating doctor. He subsequently had a L5/S1 laminectomy and discectomy for nerve root compression on 3/14/05 by John Milani, MD. The FCE of 7/12/05 indicates he is at a light PDL. The patient was placed at MMI on 10/17/05 by the treating doctor with a 10% WP IR.

#### RECORDS REVIEWED

Records were reviewed from the treating doctor/requestor and from the respondent. Records from the TD/requestor include the following: 10/14/04 operative report, 11/1/04, 11/24/04, 12/21/04 and 1/20/05 reports by Dr. Davis, therapeutic procedures reports from 11/1/04 through 12/21/04, SOAP notes from 11/2/04 through 1/20/05, Kinetic activities reports from 12/27/04 through 01/20/05, operative report of 3/14/05 (L5/S1 disc surgery), 9/29/04 peer approval of knee surgery report, 7/18/05 4 weeks work hardening approval, 7/13/05 note by Dr. Davis, 7/12/05 FCE, 9/13/05 additional 15 session approval of WH, 9/6/05 note by Dr. Davis, 8/31/05 FCE and 10/17/05 IR exam by Dr. Davis.

Records from the respondent include some of the above in addition to the following: 11/11/05 letter by Kathleen Murphy of Amtrust, 1/12/05 peer review by Mike O'Kelley, DC, 11/10/04 peer review by Casey Cochran, DO, telephonic peer review by Dr. Cochran on 11/29/04 and 12/4/04 peer review by Dr. O'Kelley.

## DISPUTED SERVICES

The disputed services include the following: E0745, E1399, 97112(-59), 97116, 97530, 98943, 97140(-59) and 99215 from 11/24/04 through 1/20/05.

## DECISION

The reviewer disagrees with the previous adverse determination regarding three units of code 97530 on 12/29/04.

The reviewer agrees with the previous adverse determination regarding all remaining services under dispute.

## BASIS FOR THE DECISION

The carrier's documentation indicates that they approved all physical therapeutics through 12/27/04. The majority of charges through this point are referenced as fee disputes by DWC. The reviewer notes that Schonholtz et al indicate that conservative care is the best treatment for a post surgical chondroplasty of the patella. However, the reviewer indicates that the treatment was likely performed for longer than a normally acceptable amount of time. Medicare guidelines indicate that 30-45 minutes are the maximum time allowed without proper documentation. The reviewer does not believe that more time than this was necessary for a simple loose body excision knee rehabilitation.

The reviewer allows a total of up to eight weeks of therapeutic exercises as medically necessary. This is as per the normally accepted guidelines for knee post surgical rehabilitation of a minor nature (not ACL/PCL). The reviewer reviewed the discussion between Dr. Cochrane and Dr. Davis. The reviewer agrees that a knee should not be over or under treated. Therefore, the eight weeks is approved. It would appear that the majority of this (initial eight weeks) care is already under fee dispute. The amount of care under MDR is denied as not medically necessary. It is likely that the knee rehabilitation was slowed secondary to the lumbar condition that Mr. \_\_\_ was suffering from at this point in time. However, the lumbar condition should have been addressed and the knee should not receive continuing care as it had reached maximum therapeutic benefit at this point.

The reviewer does not agree with the medical necessity of any form of extremity manipulation for this type of injury. Secondly, the reviewer does not see the need for the manual therapy code as it relates to the knee. Furthermore, the reviewer is not certain as to the medical reasoning of the outpatient EMS unit versus the matrix unit, which was utilized in an inpatient setting. The EOB's do not list anything of an electro stimulation code (97014, G0283 or any similar code) being performed on any of the dates with the matrix documentation.

As to the 97116, gait training, there is no documentation in the SOAP note of the patient complaining of altered gait. There is no documentation in the SOAP note of the doctor noticing altered gait. There is no documentation in the Kinetic Activity notes of a gait-training program, which was performed. The same is the case for the 97112 code. The reviewer realizes that neuromuscular re-education is an integral part of lower extremity rehabilitation. However, there are no notes of BAPS or balance boards being used. In other words, this was likely medically necessary but not properly documented. Therefore, it is not approved.

As to the 97110 and 97530 codes, the case was well documented. The reviewer states that the closed kinetic chain exercises were begun too late. The reviewer understands that there is current discussion regarding the usage of closed versus open chain exercise in a knee injury (Witvrouw et al). Regardless, the patient was not showing significant improvement following the rehabilitation program after 12/29/05.

As to the 99215 code, the case was not documented as to the standards of the Medicare Policies and Procedures Guidelines. Specifically the history and examination were not comprehensive and the medical decision-making was not of high complexity. Lastly, the time was not noted to be greater than 45 minutes with documentation of face to face counseling or coordination of care lasting greater than 50% of this time.

The reviewer indicates that a home therapy program should have been introduced toward the end of this eight-week program. The research shows that a home exercise protocol has become the standard of care as per Deyle. The patient could have been followed up and the program changed as necessary.

## REFERENCES

Schonholtz, et al Arthroscopic chondroplasty of the patella, Arthroscopy 1985;1(2):92-6

Witvrouw E, Danneels L, Van Tiggelen D, Willems TM, Cambier D. Open versus closed kinetic chain exercises in patellofemoral pain: a 5-year prospective randomized study Am J Sports Med. 2004 Jul-Aug;32(5):1122-30.

Deyle GD, et al. Physical therapy treatment effectiveness for osteoarthritis of the knee: a randomized comparison of supervised clinical exercise and manual therapy procedures versus a home exercise program Phys Ther. 2005 Dec;85(12):1301-17.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that 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.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director

### **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.**

Sincerely,

Wendy Perelli, CEO

**I hereby certify, in accordance with DWC- Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the via facsimile, U.S. Postal Service or both on this 16<sup>th</sup> day of December 2005**

**Signature of Specialty IRO Representative:**

**Name of Specialty IRO Representative: Wendy Perelli**