



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	
Requestor's Name and Address: Summit Rehabilitation Centers 2500 West Freeway # 200 Fort Worth, Texas 76102	MDR Tracking No.: M5-06-0553-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: ACE American Insurance Company Box 15	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: "Per the MFG, Reimbursement for services is dependent on the accuracy of the coding and documentation. All participants shall be responsible for correctly applying the ground rules contained within the Medical Fee Guideline, and the rules contained within the CPT/HCPCS, the ICD-9-CM coding system, and the global service surgery coding guidelines..."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60

POSITION SUMMARY: No position summary submitted

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
11-30-04 & 01-20-05	97750-FC (\$427.92 plus \$298.00)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$725.92
11-23-04 to 04-04-05	96004, 97022, 97110, 97113, 97116, 99213, 97112, 95851	<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 **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 12-14-05, 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.

On 02-07-06 the Requestor withdrew codes 97545-WH and 97546-WH date of service 11-23-04, therefore these codes on this date of service will not be a part of the review.

Review of CPT code 97545-WH and 97546-WH date of service 11-29-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor provided proof of carrier receipt of the providers request for EOBs. Reimbursement is recommended in the amount of \$102.40 and \$204.80 respectively.

CPT code 99080-73 date of service 01-21-05 denied with denial code "W1" (workers compensation State Fee Schedule adjustment). No payment has been made by the carrier. Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation to support the services billed. Reimbursement is recommended in the amount of \$15.00.

CPT code 99213 date of service 02-01-05 denied with denial code "97" (payment is included in the allowance for another service/payment included in global reimbursement). No other services were billed on the date of 02-01-05 in dispute. Reimbursement recommended in the amount of \$65.44.

CPT code 97110 (8 units) date of service 03-15-05 denied with denial code "62" (payment denied/reduced for absence of, or exceeded, pre-certification/authorization. Procedure not approved by pre-authorization). This service does not require preauthorization per Rule 134.600(h). Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation to support one-on-one therapy. Reimbursement recommended in the amount of \$279.44.

CPT code 99213 date of service 03-15-05 denied with denial code "62" (payment denied/reduced for absence of, or exceeded, pre-certification/authorization. Procedure not approved by pre-authorization). This service does not require preauthorization per Rule 134.600(h). Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation to support the service disputed. Reimbursement recommended in the amount of \$65.44.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 133.307(e)(2)(B), 134.600(h)

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 \$1,458.44. 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:

Medical Dispute Officer

02-10-06

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.



CompPartners Final Report ACCREDITED EXTERNAL REVIEW

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

Claimant Name: _____
Texas IRO # : _____
MDR #: M5-06-0553-01
Social Security #: _____
Treating Provider: Marivel Subia, DC
Review: Chart
State: TX
Date Completed: 1/11/06
Amended Date: 2/7/06

Review Data:

- Notification of IRO Assignment dated 12/14/05, 1 page.
- Doctor's Position Statement for IRO Regarding Medical Necessity Denial dated 12/20/05, 2 pages.
- List of Treating Providers (date unspecified), 1 page.
- Fax Cover Sheet dated 12/15/05, 1 page.
- Receipt of Request dated 12/14/05, 1 page.
- Invoice dated 12/15/05, 1 page.
- Medical Dispute Resolution Request dated 11/8/05, 1 page.
- Clinical Notes dated 9/7/05, 4/4/05, 3/29/05, 3/18/05, 3/17/05, 3/15/05, 3/11/05, 2/23/05, 2/14/05, 2/8/05, 2/7/05, 2/3/05, 2/2/05, 1/27/05, 1/24/05, 1/13/05, 1/7/05, 1/5/05, 12/28/04, 12/23/04, 12/21/04, 12/20/04, 12/13/04, 12/10/04, 12/3/04, 11/30/04, 11/23/04, 11/22/04, 11/19/04, 11/16/04, 11/10/04, 11/9/04, 11/4/04, 11/1/04, 10/28/04, 10/27/04, 10/26/04, 10/25/04, 10/15/04, 9/14/04, 9/13/04, 9/9/04, 8/26/04, 8/24/04, 8/23/04, 8/19/04, 8/11/04, 8/6/04, 8/5/04, 8/2/04, 7/30/04, 7/27/04, 7/26/04, 7/21/04, 7/19/04, 7/14/04, 7/13/04, 7/12/04, 7/7/04, 7/6/04, 241 pages.
- Follow-up Visit dated 4/18/05, 3/21/05, 3/18/05, 2/21/05, 1/17/05, 11/15/04, 11/3/04, 6/23/04, 5/10/04, 4/5/04, 1/27/04, 24 pages.
- Report of Evaluation dated 3/22/05, 11/3/04, 2 pages.
- Texas Workers' Compensation Work Status Report dated 3/25/05, 3/18/05, 2/18/05, 1/21/05, 9/2/04, 7/29/04, (dates unspecified), 12 pages.
- Request Form dated 3/31/05, 2 pages.
- Purchase and Rental Agreement dated 4/8/05, 1 page.
- Explanation of Reimbursement dated 4/4/05, 3/21/05, 3/17/05, 3/16/05, 3/14/05, 2/23/05, 1/25/05, 1/24/05, 1/20/05, 12/30/04, 12/27/04, 15 pages.
- Invoice EOR Summary dated 4/4/05, 3/21/05, 3/17/05, 3/16/05, 3/15/05, 3/14/05, 2/23/05, 2/1/05, 1/25/05, 1/24/05, 1/21/05, 1/20/05, 1/19/05, 1/12/05, 1/3/05, 12/30/04, 12/29/04, 12/27/04, 12/23/04, 12/22/04, 12/16/04, 12/14/04, 12/13/04, 12/10/04, 12/7/04, 12/6/04, 11/30/04, 1/27/04. 40 pages.
- Health Insurance Claim Forms dated 4/12/05, 4/6/05, 4/1/05, 3/29/05, 3/28/05, 3/22/05, 3/11/05, 3/2/05, 3/1/05, 2/25/05, 2/23/05, 2/21/05, 2/8/05, 2/7/05, 2/3/05, 2/2/05, 1/28/05, 1/27/05, 1/19/05, 1/14/05, 1/10/05, 1/5/05, 12/28/04, 12/27/04, 12/23/04, 33 pages.
- Report of Impairment Rating Evaluation dated 3/22/05, 3 pages.
- Prescription dated 3/21/05, 6/23/04, 5/3/04, 3 pages.
- Independent Medical Evaluation dated 11/23/04, 6 pages.
- Right Lower Extremity Electrodiagnostic Study dated 1/27/05, 3 pages.
- Disputed Services dated 4/4/05, 3/21/05, 3/17/05, 3/16/05, 3/15/05, 3/14/05, 2/23/05, 2/1/05, 1/25/05, 1/24/05, 1/21/05, 1/20/05, 1/19/05, and 1/12/05. 1/3/05, 12/30/04, 12/29/04, 12/27/04, 12/23/04, 12/22/04, 12/16/04, 12/14/04, 12/10/04, 12/7/04, 12/6/04, 11/30/04, 11/29/04, 11/23/04, 6 pages.
- Physical Examination/Neurological Evaluation dated 1/20/05, 11/30/04, 2 pages.
- Strength Performance and Range of Motion Examination dated 1/20/05, 8 pages.

- Range of Motion dated 8/5/04, 7/21/04, 9 pages.
- Consultation dated 7/19/04, 5/3/04, 4 pages.
- Daily Progress Note dated 7/2/04, 1 page.
- Operative Report dated 5/24/04, 3 pages.
- New Patient Evaluation dated 3/31/04, 1 page.
- New Patient Consultation dated 3/10/04, 3 pages.
- Office Note dated 2/26/04, 2/19/04, 3 pages.
- Right Knee MRI dated 2/6/04, 1 page.
- Initial Medical Report-Workers' Compensation Insurance 2 pages.
- Medical Record Review dated 10/14/04, 4 pages.
- Comprehensive Medical Analysis dated 10/15/04, 5 pages.

Reason for Assignment by TDI/DWC: Determine the appropriateness of the previously denied request for: 1) Functional capacity examination (97750-FC). 2) Whirlpool (97022). 3) Therapeutic exercises (97110). 4) Aquatic therapy (97113). 5) Gait training (97116). 6) Office visits (99213). 7) Neuromuscular re-education (97112). 8) Range of motion measurements (95851). 9) Physician review and interpretation of comprehensive computer based motion analysis, with written report (96004). Dates of service from 11/23/04 through 4/4/05.

Determination: PARTIAL – The previous denials for disputed charges from 11/23/04 through 4/4/05 are:

REVERSED - Functional capacity examination (97750-FC), for dates of service of 11/30/04 and 1/20/05.

UPHELD - Whirlpool (97022) - for dates of 12/6/04, 12/10/04, 12/13/04 and 1/12/05.

UPHELD - Therapeutic exercises (97110) - for dates of service of 12/6/04, 12/7/04, 12/10/04, 12/13/04, 12/16/04, 12/22/04, 12/23/04, 12/27/04, 12/29/04, 12/30/04, 1/3/05, 3/14/05, 3/16/05 and 3/17/05.

UPHELD - Aquatic therapy (97113) - for dates of service of 12/6/04, 12/7/04, 12/10/04, 12/13/04, 12/14/04, 12/16/04 and 1/12/05.

UPHELD – Gait training (97116) - for dates of service 12/6/04, 12/7/04, 12/10/04, 12/13/04, 12/14/04, 12/22/04, 12/23/04, 12/27/04, 12/29/04, 12/30/04, 1/3/05, 1/12/05, 3/14/05 and 3/17/05.

UPHELD - office visits (99213) for dates of service of 12/10/04, 12/29/04, 12/30/04, 1/3/05, 1/12/05, 1/19/05, 1/24/05, 1/25/05, 2/23/05, 3/14/05, 3/21/05 and 4/4/05.

UPHELD - Neuromuscular re-education (97112) – for dates of service of 12/14/04, 12/27/04 and 1/12/05.

UPHELD - 95851-Range of motion measurements and physician review for date of service 12/16/04.

UPHELD - Physician review and interpretation of comprehensive computer based motion analysis (96004) - for dates of service 11/30/05, 12/16/04 and 1/20/05.

Rationale:

Patient's age: 41 years

Gender: Male

Date of Injury: ____

Mechanism injury: 1) Fell while standing on a bar trying to get to a machine. 2) Had a sudden twisting and turning of his knee while walking on sheet rock and fell down on a pile of sheet rock. 3) When walking over scrap cement blocks, fell and his knee went medially.

Diagnoses: Post operative acromioclavicular ligament (ACL) reconstruction and lateral meniscectomy on 5/24/04.

This patient had an MRI of the right knee performed on 2/3/04, which revealed a complete tear of the ACL, and a full thickness tear of the medial collateral ligament at its proximal end. He had conservative management with physical therapy, a knee brace and crutches. He then had right knee surgery performed on 5/24/04, by Roger Taylor, MD with arthroscopy of the right knee, reconstruction of the anterior cruciate ligament using patellar tendon bone graft and a partial lateral meniscectomy. He was released to start postoperative therapy on 6/29/04, with Luz Gonzalez, DC, and subsequently, continued therapy as of 8/23/04, due to persistent pain and a minimal deficit in range of motion. On 8/5/04, a range of motion study documented near normal range of motion at 110 degrees of flexion, which was improved from the 7/21/04 study, indicating 105 degrees of right knee flexion. The patient was already afforded a work hardening program, which started on 10/18/04, of which 4 weeks were pre-authorized. The stated work hardening program failed to result in this patient's return to work. A follow-up visit with Devon Williams, PA-C/Robert Chouteau, D.O., on 11/15/04, documented full range of motion of the right knee. The knee was stable to anterior and posterior valgus and varus stress testing. On 11/23/04, at the request of the carrier, the patient was evaluated by Charles Xeller, MD, an orthopedic surgeon, who noted right knee flexion of 110 degrees, weakness of the quadriceps with instability, and he recommended two additional months of work hardening. A functional capacity evaluation (FCE), performed by Dr. Gonzalez,

DC, dated 11/30/04, documented a heavy duty job demand level and yet the patient had functional deficits which limited him to a medium to medium heavy level of functionality, at that time. (The report was not signed). There was a repeat computerized range of motion study performed on the right knee, which revealed 141 degrees of flexion and zero degrees of extension. He was seen by a designated doctor in an examination on 3/22/05, who rendered the determination that the patient had reached maximum medical improvement (MMI) with a 4% whole body impairment. On the therapy notes from 3/29/05, the patient's subjective pain was rated at 3/10, and the objective findings reflected decreased range of motion of the right knee, but the actual ranges of motion were not specified. The progress notes by Devon Williams, PA-C/Robert Chouteau, DO, dated 4/18/05, documented that the knee range of motion was full, at that time.

The current request is to determine the medical necessity for disputed charges corresponding to the period from 11/23/04 through 4/4/05, consisting of the following: a) 96004-Physician review and interpretation of comprehensive computer based motion analysis. The outcome of this study was neither interpreted nor documented nor did the copy of the report submitted for consideration bear a signature by any provider who may or may not have reviewed and/or interpreted the findings. Furthermore, such a diagnostic intervention is not a substitute for taking an attentive history and performing a careful physical examination and, therefore, is superfluous and not medically necessary. Based upon the foregoing, the charges corresponding to the dates of service of 11/30/04, 12/16/04 and 1/20/05 are inappropriate. b) 97750-FC Functional capacity examination - the medical necessity for this study would be found at this time, in order to determine the work status of the patient, due to the longer than normal recovery time post operatively on 11/30/04, and again to determine why he was not capable of returning to work by this time on 1/20/05. c) 97022-Whirlpool - this procedure lacked sufficient documentation to establish its medical necessity in this case. There was no clinically documented deficit recorded that would indicate the need for this service, specifically, on dates of service corresponding to 12/6/04, 12/10/04, 12/13/04 and 1/12/05. Applications of heat and cold could be performed by the patient at home. d) 97110-Therapeutic exercises-the medical necessity for these exercises was not found. A follow-up visit with Devon Williams, PA-C/Robert Chouteau, DO, on 11/15/04, indicated that this claimant demonstrated full range of motion of the right knee on that date and the knee was stable to anterior and posterior valgus and varus stress testing. There was no reason documented as to why this patient could not have been transitioned to a fully independent home exercise program, by that time. Although Dr. Xellar suggested two more months of work hardening, the patient had already completed at least 4 weeks of such a program and he should have been given a far more independent role in his care, by the time of Dr. Xellar's evaluation. Based upon the documentation of full right knee range of motion, there would have been no basis whatsoever to recommend two more months of work hardening. Moreover, the Official Disability Guidelines, 9th Edition set out recommendations which consist of only 34 visits over 16 weeks after this type of surgery. These ongoing therapeutic exercises were redundant and this patient did not require repeated supervised instruction for exercises he had already been doing since June 2004. Therefore, the services rendered on the following dates are not recommended: 12/6/04, 12/7/04, 12/10/04, 12/13/04, 12/16/04, 12/22/04, 12/23/04, 12/27/04, 12/29/04, 12/30/04, 1/3/05, 3/14/05, 3/16/05 and 3/17/05. e) 97113-Aquatic therapy - the medical necessity for this particular therapy was not found. The follow-up visit with Devon Williams, PA-C/Robert Chouteau, D.O. of 11/15/04 indicated that this patient had full range of motion of the right knee on that date and the knee was stable to anterior and posterior valgus and varus stress testing. Therefore, a land-based program would have been more appropriate to strengthen his right knee. Accordingly the aquatic therapy corresponding to the dates of service of 12/6/04, 12/7/04, 12/10/04, 12/13/04, 12/14/04, 12/16/04 and 1/12/05 cannot be recommended. Furthermore, based upon the lack of any clinical deficit, the patient should have been able to perform his home exercises independently, by 12/6/04. f) 97116-Gait training- the data submitted for review did not document the medical necessity for gait training. There was no indication of any deficits regarding his gait on any of the following dates of service: 12/6/04, 12/7/04, 12/10/04, 12/13/04, 12/14/04, 12/22/04, 12/23/04, 12/27/04, 12/29/04, 12/30/04, 1/3/05, 1/12/05, 3/14/05 and 3/17/05. Therefore, the medical necessity for the gait training corresponding to these dates has not been established. g) 99213-office visits - the medical necessity for this E/M code was not found, due to insufficient documentation to support this level of evaluation and management. The AMA (American Medical Association) CPT-Code Book is used for reference for 99213. Specifically, there was redundant information with no information regarding a detailed and expanded history, no new detailed expanded examination findings, and there was no specific documentation of ranges of motion, muscle testing nor orthopedic test findings. Additionally, there was no documentation of low-moderate level of clinical decision making, with only a statement reflecting that he modified the protocols to meet the patient's needs. There was no indication of how the provider modified the patient's care or why any such modifications might have been done. Accordingly, the following dates of service cannot be recommended: 12/10/04, 12/29/04, 12/30/04, 1/3/05, 1/12/05, 1/19/05, 1/24/05, 1/25/05, 2/23/05, 3/14/05, 3/21/05 and 4/4/05. h) 97112-Neuromuscular re-education - the medical necessity for these service dates was not found, due to a lack of clinical documentation to support such an intervention. The data submitted for review documented no motor, sensory or reflex deficits to justify such services corresponding to the following dates of service: 12/14/04, 12/27/04 and 1/12/05. The Blue Cross/Blue Shield Physical Medicine Guidelines set out that objective measurements of strength, ranges of motion, mobility, balance and coordination deficits resulting from a neuromuscular impairment must be documented, to support neuromuscular re-education. Other documentation should include deficits of vibration sense, paresthesias, burning, diffuse pain of the feet, lower legs or fingers, neurocompression, spinal cord injury, loss of gross and fine motor coordination and documented balance deficits. Absent documentation of any of the foregoing, the neuromuscular re-education in question hereunder cannot be recommended. i) 95851-Range of motion measurements and physician review - for the date of service corresponding to 12/16/04. The data submitted for review did not document any deficit

to clinically support this study and review. This reviewer did not find these services medically necessary. Based upon this patient's normal ranges of motion documented prior to this study, in November of 2004, the charges corresponding to these services cannot be recommended.

Criteria/Guidelines utilized: TDI/DWC rules and regulations.

Blue Cross / Blue Shield Physical Medicine Guidelines

Official Disability Guidelines, 9th edition-Work Loss data institute 2004, Special Edition-Top 200 conditions, page 208.

Physician Reviewers Specialty: Chiropractic

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