



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: Nestor Martinez, D.C. 6660 Airline Drive Houston, Texas 77076	MDR Tracking No.: M5-06-0561-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Texas Mutual Insurance Box 54	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: None submitted by Requestor

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60 package
 POSITION SUMMARY: "Texas Mutual requests that the request for dispute resolution filed by NM Health Services-North, PA be conducted under the provisions of the APA set out above".

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
11-22-04 to 02-21-05	97140	<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.

Based on review of the disputed issues within the request, the 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 12-12-2005, 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 97546-WH (5 units) date of service 02-21-05 denied by the carrier with denial code "790" (charge was reduced in accordance to the Texas Medical Fee Guideline). No payment has been made by the carrier. Reimbursement is recommended in the amount of **\$256.00** per Rule 134.2.02(5)(A)(ii)

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 and 134.202(5)(A)(ii)

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 entitled to reimbursement in the amount of **\$256.00**. 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.

Findings and Decision by:

02-06-06

Authorized Signature

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.



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

Claimant Name: _____
Texas IRO # : _____
MDR #: M5-06-0561-01
Social Security #: _____
Treating Provider: Dean McMillan, MD
Review: Chart
State: TX
Date Completed: 1/17/06

Review Data:

- Notification of IRO Assignment dated 12/12/05, 1 page.
- Receipt of Request dated 12/12/05, 1 page.
- Provider List dated 11/30/05, 1 page.
- Medical Dispute Resolution Request dated 11/14/05, 2 pages.
- List of Treating Providers (date unspecified), 3 pages.
- Explanation of Benefits dated 2/16/05, 2/14/05, 2/11/05, 1/31/05, 1/27/05, 1/26/05, 1/24/05, 1/20/05, 1/18/05, 1/17/05, 1/14/05, 1/12/05, 1/11/05, 1/5/05, 1/3/05, 12/30/04, 12/28/05, 12/27/04, 12/23/04, 12/22/04, 12/21/04, 12/17/04, 12/15/04, 12/13/04, 12/10/04, 12/8/04, 12/6/04, 12/3/04, 12/1/04, 11/29/04, 11/24/04, 11/23/04, 11/22/04, 11/19/04, 11/18/04, 11/15/04, 10 pages.
- Table of Disputed Services dated 2/21/05, 2/16/05, 2/14/05, 2/11/05, 2/9/05, 2/7/05, 2/3/05, 2/2/05, 1/31/05, and 1/27/05. 1/26/05, 1/24/05, 1/20/05, 1/18/05, 1/17/05, 1/14/05, 1/12/05, 1/11/05, 1/5/05, 1/3/05, 12/30/04, 12/27/04, 12/23/04, 12/22/04, 12/21/04, 12/17/04, 12/15/04, 12/13/04, 12/10/04, 12/8/04, 12/6/04, 12/3/04, 12/1/04, 11/29/04, 11/24/04, 11/23/04, 11/22/04, 3 pages.
- Case Review dated 10/15/04, 1 page.
- Upper Extremity Impairment Evaluation dated 10/15/04, 1 page.
- Physician Record dated 10/14/04, 10/8/04, 10/4/04, 6 pages.
- Fax Cover Sheet dated 12/15/05, 1 page.

Reason for Assignment by TDI/DWC: Determine the appropriateness of the previously denied request for manual therapy technique (97140), for dates of service 11/22/04 through 2/21/05.

Determination: **UPHELD** – previously denied request for manual therapy technique (97140), for dates of service 11/22/04 through 2/21/05.

Rationale:

Patient's age: _____
Gender: Male
Date of Injury: _____
Mechanism of Injury: Motor vehicle accident.
Diagnoses: Sprain, elbow.

There was limited documentation presented for review. The claimant was involved in a motor vehicle accident. His original complaint was pain in the knee and elbow (no documentation of which side). According to the letter from Dr. Taylor, as of _____, the knee pain had resolved. The patient continued to complain of mild ongoing elbow pain. On October 5, 2004, he demonstrated full range of motion of the elbow, with mild pain upon extension.

On October 15, 2004, the patient was given a maximum medical improvement percentage, and a medical release. Manual therapy consists of passive strengthening, stretching legs, myofascial release, trigger point treatments, chiropractic adjustments, and traction of joints. The item in dispute is not certified secondary to insufficient evidence to support the above therapy request. There is no high-grade scientific evidence to support the effectiveness or ineffectiveness of passive physical modalities as stated above. These palliative tools may be used on a trial basis that should be monitored closely. Emphasis should be focused on functional restoration and return of activity to normal daily living.

The manual therapy was excessive, and there was no clinical evidence pertaining to its efficacy. Furthermore, manipulation and/or manual techniques appear safe and effective in the first few weeks of injury. In acute phases of injury, manipulation i.e. manual therapy may enhance the patient's mobilization. If this technique does not bring improvement in three to four weeks, it should be stopped and re-evaluated. For patients with symptoms lasting longer, there has been no efficacy proven. Therefore, the request should again be denied.

Criteria/Guidelines utilized: TDI/DWC rules and regulations.
The ACOEM Guidelines, 2nd Edition, Chapters 6 and 10.

Physician Reviewers Specialty: Pain Management

Physician Reviewers Qualifications: Texas Licensed MD, and is also currently listed on the Texas 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.

American College of Occupational and Environmental Medicine (ACOEM) Occupational Medical Practice Guidelines, Second Edition.
Chapter 6, Chronic pain, Pg 116-117

Summary

Physicians should acknowledge the patient's experience of pain. Pain can be independent of the degree of physical pathology. The pain experience is modified by coping mechanisms; cultural and personal expectations; the patient's current psychological state; tissue damage and repair; and the influences, expectations, and responses of health care providers. It is critical for physicians to convey acceptance of, and empathy with, information the patient shares. Anomalous or exaggerated expressions of pain indicate that medical and psychological evaluations may be warranted.

Pain management focuses on functional restoration. Because return to function is essential to a return to health, occupational health professionals are concerned with return to function. It is very important to identify, at as early a point as possible, the development of chronic pain patterns and responses. Maintaining function will minimize the stiffness, aches, and atrophy that result from being sedentary. Typically, when function improves, so does perceived pain.

Physical Methods

- Any one or more of a variety of physical methods may be appropriate in the treatment of a patient's elbow condition. These methods include:
- Instruction in home exercise. Except for cases of unstable fractures or acute dislocations, physicians should advise patients to do early range-of-motion exercises at home. Instruction in proper exercise technique is important, and a few visits to a good physical therapist can serve to educate the patient about an effective exercise program.
 - Patient's at-home applications of heat or cold packs may be used before or after exercises and are as effective as those performed by therapists.
 - Published randomized clinical trials are needed to provide better evidence for the use of many physical modalities that are commonly employed. Some therapists use a variety of procedures; conclusions regarding their effectiveness may be based on anecdotal reports or case studies. Included among these modalities are massage, diathermy, extracorporeal shockwave therapy (ESWT), low-level laser therapy (LLLTT), ultrasonography, transcutaneous electrical neurostimulation (TENS), electrical stimulation (E-STIM), iontophoresis, and biofeedback. In general, if tied to signs of objective progress within two to three weeks, it may be acceptable to use these modalities as an adjunct to a program of evidence-based functional restoration.
 - The efficacy of needle acupuncture is not yet clearly supported by quality medical evidence. While limited existing studies support needle acupuncture for short-term relief of lateral elbow pain, clear evidence currently is insufficient to either support or refute using needle acupuncture to treat lateral epicondylitis; and discovery of potential adverse effects is inadequate. More trials, using adequate sample sizes, are needed before conclusions can be drawn regarding the effect of needle acupuncture on lateral epicondylitis.
 - Physicians may consider referring the patient to a specialist for local anesthetic and corticosteroid injections into tender areas of epicondylitis and, possibly, injection in the area of the radial tunnel in the forearm for distal symptoms. In most cases, physicians should carry out conservative measures for four to six weeks before considering injections. Corticosteroid injections have been shown to be effective, at least in the short term; however, the evidence on long-term effects is mixed, some studies show high recurrence rate among injection groups.