



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

Type of Requestor: () Health Care Provider (X) Injured Employee () Insurance Carrier

Requestor's Name and Address:

MDR Tracking No.: M5-06-0686-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

LM Insurance Corporation
Box 28

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION: DWC-60 dispute package

POSITION SUMMARY: None submitted by Requestor

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION: Response to DWC-60 dispute

POSITION SUMMARY: "The carrier is denying the claimant's request for reimbursement for healthclub membership. It is our position this is not medically necessary nor reasonable".

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
04-05-04 to 05-05-05	Membership in Fitness Club	<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.

Findings and Decision by:

03-06-06

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.

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

March 1, 2006

Re: IRO Case # M5-06-0686 -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, Rule133.308 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 physician who is Board Certified in Physical Medicine and Rehabilitation, 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. Letters of medical necessity
4. Follow up notes 2002-2005, H & P 9/30/02, Dr. Rosenstein
5. Physical therapy progress reports 2002-2004
6. CT lumbar spine report 8/28/04
7. Pelvis x-ray report 6/21/04
8. Evaluations back, cervical spine 10/22/03
9. Cervical evaluation 10/23/02
10. CT reports cervical and lumbar spine 11/4/02
11. Physical therapy discharge summary 11/18/02
12. RME 8/18/02
13. Electrodiagnostic evaluation 2/20/02, follow up report 1/22/02, initial evaluation 1/8/02, Dr. Kay

History

The patient injured his neck and back in ____ when he bent over to pick up a piece of paper. He felt immediate pain in his back and neck. He was transported by ambulance to the hospital. After evaluations with diagnostic tests, the patient began treatment with his treating neurosurgeon in September 2002. He was diagnosed with left C7 radiculopathy, low back pain, left facet syndrome, and central and left-sided C6-7 disk bulge with suspected left C6-7 foraminal stenosis. He was started in physical therapy in October 2002. A CT scan of the cervical spine on 11/4/02 showed a 2mm central disk protrusion at C5-6 and a 1-2mm

left-sided protrusion at C6-7. A lumbar CT scan on the same day revealed a 1-2mm central disk protrusion at L5S1. He was discharged from physical therapy in November 2002, after six visits, to continue a home exercise program. The patient went through another round of physical therapy 10/15/04 – 11/5/04. A repeat CT scan of the lumbar spine showed a 2mm disk protrusion at L5-S1. An electrodiagnostic study was attempted of the lower extremities, but the patient was unable to tolerate it.

Requested Service(s)

Membership in a fitness club.

Decision

I agree with the carrier's decision to deny the requested fitness club membership.

Rationale

The patient has had multiple sessions of physical therapy over the years. He is independent in a home exercise program for his neck and low back. While a health club membership may be preferable, it is not medically necessary for the activities of an effective home exercise program.

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

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 a 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 the 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 must be received by the Division of Workers' Compensation, chief Clerk of Proceedings, within then (10) days of your receipt of this decision.

Sincerely,

Daniel Y. Chin, for GP