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: (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.: M5-06-0749-01 Claim No.: Injured Employee's Name:
Respondent's Name and Address: Employers Mutual Casualty Company Box 19	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: "The current dispute involves payment for physical/chiropractic medicine from 03/10/05 through 08/25/05. Carrier has denied same on the grounds of a lack of justification and documentation of medical necessity".

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
3-10-05 to 8-25-05	99213, 95851, 97012, 97110, 97140-59, 97140, 98940, G0283, 99080-73, 97750-FC and 96004	☐ Yes ☒ 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 and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

		02-08-06
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 Final Report

URAC ACCREDITED EXTERNAL REVIEW

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

Claimant Name: ___
Texas IRO #: ___
MDR #: M5-06-0749-01
Social Security #: ___
Treating Provider: Marivel Subia, DC
Review: Chart
State: TX
Date Completed: 2/7/06

Review Data:

- **Medical Dispute Resolution Request/ Response dated 12/6/05, 2 pages.**
- **Letter of Dispute dated 1/13/06, 1/3/06, 4 pages.**
- **Notice to CompPartners, Inc. of Case Assignment dated 1/4/06, 1 page.**
- **List of Treating Providers (date unspecified) 2 pages.**
- **Request from a Utilization Review Agent for Assignment of an Independent Review Organization dated 1/4/06, 1 page.**
- **Request for a Review by an Independent Review Organization dated 12/16/05, 2 pages.**
- **Fax Cover Sheet dated 1/4/06, 4/27/05, 3 pages.**
- **Receipt of Request dated 1/5/06, 1 page.**
- **Notification of IRO Assignment dated 1/5/06, 1 page.**
- **Disputed Services dated 8/25/05, 6/2/05, 5/25/05, 5/18/05, 5/9/05, 5/3/05, 5/2/05, 4/28/05, 4/27/05, 4/25/05, 4/6/05, 3/22/05, 3/16/05, 3/14/05, and 3/10/05. 3 pages.**
- **Treating Doctor Position Statement for IRO Regarding Medical Necessity Denial dated 1/16/06, 2 pages.**
- **Order for Payment of Independent Review Organization Fee dated 1/18/06, 1 page.**
- **SOAP Notes dated 1/3/06, 12/14/05, 11/21/05, 11/11/05, 11/9/05, 11/7/05, 11/3/05, 10/26/05, 10/21/05, 10/19/05, 10/13/05, 10/11/05, 10/5/05, 10/4/05, 10/3/05, 9/16/05, 8/29/05, 8/12/05, 8/10/05, 8/8/05, 7/27/05, 7/26/05, 7/19/05, 7/18/05, 7/11/05, 7/6/05, 7/5/05, 6/29/05, 6/28/05, 6/22/05, 6/17/05, 6/8/05, 5/31/05, 5/26/05, 5/9/05, 5/3/05, 5/2/05, 4/29/05, 4/28/05, 4/27/05, 4/25/06, 4/21/05, 4/20/05, 4/19/05, 4/18/05, 4/14/05, 4/13/05, 4/7/05, 4/4/05, 3/31/05, 3/29/05, 3/28/05, 3/23/05, 3/22/05, 3/21/05, 3/17/05, 3/15/05, 3/11/05, 3/10/05, 3/9/05, 283 pages.**
- **Office Visits dated 12/13/05, 12/12/05, 9/20/05, 5/24/05, 5/4/05, 20 pages.**
- **Report of Medical Evaluation dated 12/13/05, 7/27/05, 7/8/05, 3 pages.**
- **Notice of Utilization Review Findings dated 12/8/05, 12/2/05, 11/9/05, 10/27/05, 8/22/05, 8/18/05, 6/1/05, 15 pages.**

- **Texas Workers' Compensation Work Status Reports dated 9/30/05, 9/2/05, 8/1/05, 4/4/05, 3/2/05, (dates unspecified), 10 pages.**
- **Office Notes dated 11/15/05, 8/4/05, 6/30/05, 6/2/05, 5/5/05, 4/28/05, 4/18/05, 4/14/05, 3/31/05, 3/17/05, 3/8/05, 15 pages.**
- **Acknowledgement of Reconsideration Request dated 11/14/05, 1 page.**
- **Appeal Procedure (date unspecified), 1 page.**
- **Progress Notes dated 11/3/05, 10/18/05, 6 pages.**
- **Medical Necessity of Translation Services dated 11/15/05, 10/6/05, 8/4/05, 6/16/05, 6/2/05, 5/5/05, 4/28/05, 4/14/05, 3/17/05, 9 pages.**
- **Physical Examination/Neurological Evaluation of FCE dated 11/2/05, 8/9/05, 5/9/05, 3 pages.**
- **Ergos Evaluation Summary dated 11/2/05, 8/9/05, 5/9/05, 42 pages.**
- **Blood Pressure Results dated 11/2/05, 1 page.**
- **Chronic Pain Management Group Notes dated 10/28/05, 7/12/05, 6/21/05, 3 pages.**
- **Psychotherapeutic Group Notes dated 10/21/05, 10/5/05, 8/3/05, 3 pages.**
- **Medical Record Review dated 4/14/05, 7 pages.**

- **Behavioral Medicine Consultation dated 5/18/05, 6 pages.**
- **Physical Examination (date unspecified), 1 page.**
- **Individual Psychotherapy Note dated 10/7/05, 1 page.**
- **Lumbar Spine MRI dated 10/6/05, 2 pages.**
- **Consultation dated 10/3/05, 4 pages.**
- **Commissioner's Bulletin dated 8/30/05, 1 page.**
- **Range of Motion Examination dated 4/13/05, 4/6/05, 3/31/05, 3/22/05, 3/3/05, 47 pages.**
- **Group Therapy Notes dated 7/20/05, 1 page.**
- **Interoffice Memo dated 3/29/05, 1 page.**
- **Report Cover dated 7/14/05, 1 page.**
- **Designated Doctor Evaluation dated 7/8/05, 4 pages.**
- **Billing Statements dated 8/25/05, 6/2/05, 5/25/05, 5/18/05, 5/9/05, 5/3/05, 5/2/05, 4/28/05, 4/27/05, 4/25/05, 4/6/05, 3/22/05, 3/21/05, 3/16/05, 3/14/05, 3/10/05, 3/11/05, 3/8/05, 3/7/05, 12 pages.**
- **Fax Call Report dated 7/13/05, 1 page.**
- **Edocing Reference Guide dated 8/14/05, (date unspecified), 2 pages.**
- **Patient Admission Information dated 2/21/05, 3 pages.**
- **Emergency Department Order Sheet (date unspecified), 1 page.**
- **Educational Group Therapy Note dated 6/15/05, 1 page.**
- **Muscle Stimulator Supply Order dated 4/18/05, 1 page.**
- **Billing Charges (date unspecified) 2 pages.**
- **Emergency Physician Record dated 2/21/05, 1 page.**
- **Letter of Medical Necessity dated 4/20/05, 1 page.**
- **Prescription dated 4/20/05, 1 page.**
- **Invoice dated 4/20/05, 2 pages.**
- **Request for Authorization of Reasonable and Necessary Services dated 4/18/05, 1 page.**
- **Statement of Medical Necessity (date unspecified), 1 page.**
- **Lower Extremity Electrodiagnostic Study dated 4/6/05, 4 pages.**
- **Patient Status dated 2/21/05, 1 page.**
- **Assessment dated 2/21/05, 1 page.**
- **Initial Nursing Assessment dated 2/21/05, 1 page.**
- **Lumbar Spine X-ray dated 2/21/05, 1 page.**
- **Discharge dated 2/21/05, 1 page.**
- **Emergency Department Patient Care Record dated 2/21/05, 2 pages.**
- **Consent for Treatment dated 2/21/05, 1 page.**
- **Joint Notice of Privacy (NPP) Acknowledgement dated 2/21/05, 1 page.**
- **Condition of Services dated 2/21/05, 2 pages.**

Reason for Assignment by TDI/DWC: Determine the appropriateness of the previously denied request for services disputed during dates of service of 3/10/05 to 8/25/05: 1) Office visits (99213). 2) Range of motion measurements (95851). 3) Mechanical Traction (97012). 4) Therapeutic exercises (97110). 5) Manual therapy technique (97140-59/97140). 6) Chiropractic manipulative treatment (98940). 7) Electrical stimulation (G0283). 8) Special reports (99080-73). 9) Functional capacity examination (97750-FC). 10) Analysis with written report (96004) for: a) computerized based motion analysis, b) Dynamic plantar pressure measurements, c) Dynamic surface electromyography (EMG) during walking or other functional activities, and d) Dynamic fine wire electromyography.

Determination: UPHELD - 1) Office visits (99213) for dates of service on 3/10/05, 3/14/05, 3/16/05, 4/6/05, 4/25/05, 4/27/05, 4/28/05, 5/2/05, 5/3/05, 5/18/05, 5/25/05, 6/2/05, and 8/25/05. 2) Range of motion measurements (95851) on dates of service of 3/22/05 and 4/6/05. 3) Mechanical Traction (97012) on dates of service on 4/6/05, 4/27/05, 4/28/05, 5/2/05 and 5/3/05. 4) Therapeutic exercises (97110) on dates of service 4/6/05, 4/25/05, 4/27/05, 4/28/05, 5/2/05 and 5/3/05. 5) Manual therapy technique (97140-59) on 4/6/05 and 97140 on 4/25/05, 4/27/05, 4/28/05, 5/2/05 and 5/3/05. 6) Chiropractic manipulative treatment (98940) on 4/6/05. 7) Electrical stimulation (G0283) on 4/6/05, 4/25/05, 4/27/05, 4/28/05 and 5/2/05. 8) Special reports (99080-73) on 5/2/05 and 6/2/05. 9) Functional capacity examination (97750-FC) on 5/9/05. 10) Analysis with written report (96004) on dates of service of 3/22/05, 4/6/05, and 5/9/05 consisting of: a) Computerized based motion analysis, b) Dynamic plantar pressure measurements, c) Dynamic surface electromyography during walking or other functional activities, and d) Dynamic fine wire electromyography.

Rationale:

Patient's age:
Gender:
Date of Injury: ___
Mechanism of Injury: Lifting metal tubes weighing approximately 40 pounds, and felt immediate onset of pain that radiated into the lower extremities.
Diagnoses: Lumbar disc displacement without myelopathy; lumbosacral sprain, and spinal stenosis of the lumbar region.

The patient's mother initially took him to an emergency room on 2/21/05. He was given X-rays which revealed only a slight S-shaped lateral curvature of the thoracolumbar spine, and was he was released to return to work and given a referral to Dr. Ippolito, MD or B. Benbow, DO to be re-evaluated in five to seven days. He was given medications of Soma and Motrin. He then transferred his care to Summit Rehab Centers on 3/2/05, and began a rehabilitation program and was taken off work by the chiropractic/provider, M.C. Subia, DC.

The Summary of Carriers position dated 1/3/06, indicated that there was no medical reason to justify the length and frequency of the treatment afforded this claimant, and that referenced "surveillance videotape of this claimant performing activities that belie the subjective complaints made during the provider's examination and therefore no additional reimbursement is warranted". On 12/13/05, the claimant underwent a re-examination by TDI/DWC Designated Doctor, Robert B. Honigsfeld, DC after having examined him initially on 5/24/05. His position was that, upon examination and observation of this patient, and with review of the 5 days of surveillance video tapes from 3/20/05 showing no restrictions, no pain behaviors, lifting heavy stereo speaker without difficulty, doing normal activities of daily living with no difficulty, no objective findings on examination with full range of motion, no positive orthopedic tests or neurological deficits noted and the video demonstrated that the claimant was not impaired and engaged in normal activities indicating no physical impairment as confirmed especially in the video tape, he was given a zero impairment rating and was determined to be at maximum medical improvement (MMI) as far back as 5/24/05. This examiner indicated that he had nothing more than a grade 1 sprain of the lumbar spine, which should have resolved in 4 weeks and no more than 12 chiropractic visits.

The Designated Doctor examiner referenced an MRI of 10/6/05, which revealed a L4-5 and L5-S1 disc herniation of questionable etiology, and felt that it was not causally related to the on-the-job injury. There is also another Designated Doctor examination performed by Victor Guerrero, MD, and dated 7/8/05, who opined that the claimant was not at MMI and would be MMI on or about 10/8/05. However, oddly, the examination from this Designated Doctor revealed physical examination was normal, with normal gait and posture, orthopedic tests were normal for the lumbar spine, and reflexes and sensation were normal, with no deficits in motor muscle testing. He only documented lumbar range of motion decreased with full effort on observation only and no measurements were performed. On 3/8/05, he was evaluated by Andrew Small, III, MD, and found to have full and normal range of lumbar motion, no sensory deficits, he had normal reflexes, there were no muscle testing deficits, but he did have a positive straight leg raise at 45-60 degrees, bilaterally, without radiculopathy and some muscle spasms were noted in the lumbar spine. He was seen on 3/9/05, and the notes from that date of service were unsigned, and indicated a subjective pain scale of 7/10, and objective findings rated 7 for decreased range of motion (normal the day before), and 7 for spasms, and tenderness with hyperesthesias at a 7 (oddly Dr. Small found no deficits in sensory the day before). He was also diagnosed with intervertebral disc (IVD) with myelopathy (indicating a contraindication to chiropractic manipulation when myelopathy is present at that level).

There was reference to an electromyogram/nerve conduction velocity (EMG/NCV) study on 4/6/05, which was normal, as interpreted by J.E. Walker, MD neurologist. There was a reference to a range of motion study on 3/22/05 by J. F. Orr, DC that revealed minimal change since the last examination, with no specifics. The 4/6/05 examination by Dr. Orr indicated the patient had achieved normal limits of lumbar region range of motion with end range pain. There was an unsigned report on a 5/9/05 Functional Capacity Evaluation (FCE) which indicated only the neurological test (Tactile Sense WNL) normal. The ERGOS evaluation by Dr. Peterson, then indicated multiple deficits, without any specifics on 5/9/05, other than he was able to function at light duty physical demand level (PDL). A record review from R.A. **Bnczek, DO, DC** indicated that this claimant did not have physical findings to warrant the degree of care he had to date of 8/14/05, and should have been returned to the workforce at that time. The examination, from an unknown provider (illegible signature), revealed that on 7/13/05, he had normal gait, posture, negative orthopedic tests, negative neurological test, no sensory losses but some decreased range of motion without specifics.

The current request is to determine the medical necessity for services disputed during dates of service of 3/10/05 to 8/25/05:
1) Office visits (99213) on 3/10/05, 3/14/05, 3/16/05, 4/6/05, 4/25/05, 4/27/05, 4/28/05, 5/2/05, 5/3/05, 5/18/05, 5/25/05, 6/2/05, and 8/25/05. The medical necessity for this level of evaluation and management (E/M) charge was not found within the documentation provided. The provider's documentation did not contain enough information that reflected an expanded history, as the notes were the same information regarding history on each examination date through 1/3/06, with no evidence of new injury or

new history. The expanded examination information in these notes also failed to reveal specific areas of the body examined regarding the claimed guarding, spasms, tenderness and limitations in ranges of motion, and therefore, also failed to provide expected information with an expanded examination and this documentation certainly does not reflect even a low clinical decision making as the information was repeated as simply "continue conservative care" on each of these charged examinations. The medical necessity for these charges was not found, as referenced in the ChiroCode Book, 10th edition, Section C, page 17. Additionally, these notes were not signed by any provider, of which one would expect for reimbursement and identification of actual examiner. Other reasons for non-certification include 3/10/05, 3/14/05 and 4/6/05 dates having manipulation charged with an examination office/visit charge on the same date of a manipulation charge. Additionally, a provider doing this examination does not sign the daily notes for these services.

2) Range of motion measurements (95851) on 3/22/05 and 4/6/05. The medical necessity for these testing dates was not found. This claimant was evaluated on 3/8/05, by Andrew Small, III, MD, and found to have full and normal range of lumbar motion and, therefore, this testing was not medically necessary, void any documentation of actual flare-up or new injury.

3) Mechanical Traction (97012) on 4/6/05, 4/27/05, 4/28/05, 5/2/05, and 5/3/05. The medical necessity for this procedure was not found at this time, with the provided documentation. The ACOEM Guidelines, Chapter 12, page 300 reflects, specifically, that "Traction has not been proved effective for lasting relief in treatment low back pain". Therefore, it is non-certified at this time. Additionally, the daily notes for the dates of service in question, were not signed.

4) Therapeutic exercises (97110) on 4/6/05, 4/25/05, 4/27/05, 4/28/05, 5/2/05 and 5/3/05. The medical necessity for these dates of service was not found. This claimant was examined by Dr. Small on 3/8/05, and found to have full and normal range of lumbar motion, no sensory deficits, had normal reflexes, no muscle testing deficits, but did have a positive straight leg raise at 45-60 degrees, bilaterally, without radiculopathy, and had some muscle spasms noted in the lumbar spine. Therefore, there was no medical necessity for this patient to receive this level of therapeutic exercise in office. This claimant should have been assigned home exercises, and there did not appear to be any co-morbid factor documented to indicate otherwise. This determination would be within the recommendations in the ACOEM Guidelines, Chapter 12. Additionally, the provider performing the procedures does not sign the daily notes for these dates of service.

5) Manual therapy technique (97140-59) on 4/6/05 and (97140) on 4/25/05, 4/27/05, 4/28/05, 5/2/05, and 5/3/05. The medical necessity for this myofascial release (massage) technique was not found, at this time, with the provided documentation. This passive care modality is not found efficacious according to the ACOEM Guidelines, Chapter 12, page 300, which indicates that massage has no proven efficacy in treating acute low back pain symptoms. Therefore, this request is non-certified. Additionally, the provider performing the technique does not sign the daily notes for these dates of service.

6) Chiropractic manipulative treatment (98940) on 4/6/05. The medical necessity for this date of service with manipulation was not met due to lack of appropriate lumbar subluxation listing or fixation listing, which is required to justify a manipulation to the area. Documentation failed to identify a medical necessity for this procedure and the notes for that date of service were not signed.

7) Electrical stimulation (G0283) on 4/6/05, 4/25/05, 4/27/05, 4/28/05, and 5/2/05. The medical necessity for this procedure was not found. The ACOEM Guidelines, Chapter 12, indicate that this passive care physical therapy modality does not have proven efficacy with regard to low back complaints.

8) Special reports (99080-73) on 5/2/05 and 6/2/05. The medical necessity for these special reports was not found because there was no indication of what type of report they were charging for, and therefore, no medical necessity was found.

9) Functional Capacity Evaluation (97750-FC) on 5/9/05. The medical necessity for this test was not found. This claimant had normal muscle testing, normal reflexes, normal sensation, and normal ranges of motion in the lumbar spine. Therefore, with reference to the ACOEM Guidelines, page 138, a FCE can be a deliberately simplified evaluation based on multiple assumptions and subjective factors that are not always apparent for the requesting physician. There is little scientific evidence confirming that a Functional Capacity Evaluation predicate an individuals actual capacity to perform in a workplace. The FCE reflexes what an individual can do on a single day, at a particular time, under controlled circumstances, provides an indication of that individual's ability. So based on this, the reviewer could not recommend the FCE.

10) Analysis with written report for (96004) on dates of service of 3/22/05, 4/6/05, and 5/9/05, consisting of: a) computerized based motion analysis. This was not found medically necessary on these dates of service, due to normal range of motion findings found on 3/8/05, by the treating doctor, Dr. Small, therefore, there was no medical necessity to continue doing these studies without evidence of flare-up or new injury. Additionally, computerized range of motion studies are not necessary when they could have been performed easily with a manual inclinometer, as suggested in the AMA Guidelines, 4th edition. This is a choice of the provider that has this computer available, and would be considered a convenience rather than a medical necessity. B) Dynamic

plantar pressure measurements. This was not medically necessary as there was no indication of plantar pressure deficits, as muscle testing was normal as was gait and reflexes as of the 3/8/05 examination by Dr. Small. C) Dynamic surface electromyography during walking or other functional activities. Surface EMG's are not considered effacious and would not be recommended as medically necessary over a needle EMG that was actually done and measured normal. D) Dynamic fine wire electromyography. Dr. Small found this patient to have no radiculopathy symptoms on 3/8/05, as the patient also had no reflex or muscle strength deficits noted to find this medically necessary. Additionally, the fine wire electromyography over needle EMG is not found effacious. The written reports for these dates of service were not found medically necessary as the procedures were not found medically necessary.

Criteria/Guidelines utilized: TDI/DWC Rules and Regulations.

ACOEM Guidelines, 2nd Edition, Chapter 12, page 300.

ChiroCode Book, 10th edition, Section C, page 17.

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.