



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:	MDR Tracking No.: M5-06-0870-01
Texas Health 5445 La Sierra Dr. #204 Dallas, Texas 75231	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
Mesquite ISD, Box 42	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC 60 package. Position summary states, "This insurance carrier is a habitual violator of TDI Rules and Regulations. They continually pay at a rate far below the TDI Fee Guideline."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC 60 response.

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)
1-17-05 – 6-2-05	CPT codes 97003-OT, 90889, 90880	<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 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 2-1-06 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.

Regarding CPT code 90806 on 1-17-05, 1-24-05, 1-31-05, 2-11-05, 2-18-05 and 2-21-05: Per the 2002 MFG the insurance carrier reimbursed a partial amount for these services. The MAR for CPT code 90806 is \$126.75. The insurance carrier reimbursed \$472.05 for six dates of service. Recommend reimbursement of an additional \$281.45.

Regarding CPT code 90806 on 5-23-05 and 6-2-05: In accordance with Rule 134.600 (h) (4), the requestor provided a copy of preauthorization letters dated 1-10-05 and 5-4-05 for ten weeks of Individual Psychotherapy. The carrier denied these sessions for unnecessary medical treatment based on a peer review. Rule 133.301 (a) states "the insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatments (s) and/or service (s) for which the health care provider has obtained preauthorization under Chapter 134 of this title." The carrier will be billed for this violation of the rules. Reimbursement of \$253.50 (\$126.75 X 2 DOS) is recommended.

Regarding CPT code 90901 on 6-2-05: In accordance with Rule 134.600 (h) (4), the requestor provided a copy of preauthorization letters dated 1-10-05 and 5-4-05 for ten weeks of Biofeedback Therapy. The carrier denied these sessions for unnecessary medical treatment based on a peer review. Rule 133.301 (a) states "the insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatments (s) and/or service (s) for which the health care provider has obtained preauthorization under Chapter 134 of this title." The carrier will be billed for this violation of the rules. The descriptor for code 90901 does not include a time element. Therefore, time is not considered a factor when using this code to identify the service performed. This code should be used once to identify all modalities of biofeedback therapy performed for that date of service, regardless of time increments and number of modalities performed. Recommend reimbursement of one unit - \$53.35.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 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 \$588.30. 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

2-23-06

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.

February 22, 2006

Texas Department of Insurance Division of Texas Worker's Compensation
MS48
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1609

NOTICE OF INDEPENDENT REVIEW DECISION

**RE: MDR Tracking #: M5-06-0870-01
DWC #:**

Requestor: Texas Health

Respondent: Mesquite ISD

MAXIMUS Case #: TW06-0019

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. The TDI, Division of Workers Compensation (DWC) has assigned this case to MAXIMUS in accordance with Rule §133.308, which allows for a dispute resolution by an IRO.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician who is board certified in psychiatry on the MAXIMUS external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the approved doctor list (ADL) of DWC or has been approved as an exception to the ADL requirement. A certification was signed 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, was signed. In addition, the MAXIMUS physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns an adult female who sustained a work related injury on _____. The patient reported that while preparing food she was taking a large pan out of a steamer when she felt a pull in her back. Diagnoses included chronic low back pain, lumbar disc displacement, lumbar radiculopathy, depressive disorder and myofascial pain syndrome. Evaluation and treatment have included ice, physiotherapy, manipulation and medications.

Requested Services

97003-OT Evaluation, 90889-Preparation of report, and 90880-Hypnotherapy from 1/17/05-6/2/05.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Authorization Report & Notification – 5/4/05
2. Pain Management Records – 2/2/05
3. Psychotherapy/Psychophysiological/Behavioral Medicine Notes – 12/20/04-6/2/05
4. Occupational Therapy Records – 3/2/05
5. Functional Capacity Evaluation – 2/15/05
6. Functional Abilities Evaluation – 3/2/05
7. MRI – 10/16/04

Documents Submitted by Respondent:

1. Independent Evaluation – 4/22/05

Decision

The Carrier's denial of authorization for the requested services is upheld.

Standard of Review

This MAXIMUS determination is based upon generally accepted standard and medical literature regarding the condition and services/supplies in the appeal.

Rationale/Basis for Decision

The MAXIMUS physician consultant indicated that an independent medical evaluation on 4/22/05 reported no evidence of neurological findings. The MAXIMUS physician consultant noted that this examination reported that the patient's condition had long-since resolved despite subjective complaints to continued pain. The MAXIMUS physician consultant also noted that the services in question were performed for a diagnosis of chronic adjustment disorder. The MAXIMUS physician consultant explained that according to the Diagnostic and Statistical Manual of Mental Disorders, an adjustment disorder should resolve itself within 6 months unless the stressor is persisting beyond that point. The MAXIMUS physician consultant indicated that the patient's subjective complaints and the presence of the stressor persisting beyond 6 months cannot be established to determine that the treatment in question was medically necessary for treating this patient's injury based on the data presented for review.

Therefore, the MAXIMUS physician consultant concluded that the 97003-OT Evaluation, 90889-Preparation of report, and 90880-Hypnotherapy from 1/17/05-6/2/05 were not supported as medically necessary for treatment of the patient's condition.

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Sincerely,
MAXIMUS

Lisa Gebbie, MS, RN
State Appeals Department