



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:  
Texas Health  
5445 La Sierra, Suite 204  
Dallas, Texas 75231

MDR Tracking No.: M5-06-0871-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:  
Harris & Harris  
Box 42

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

**PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY**

PRINCIPLE DOCUMENTATION: DWC-60 dispute package  
POSITION SUMMARY: "Services were medically necessary"

**PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY**

PRINCIPLE DOCUMENTATION: Response to DWC-60  
POSITION SUMMARY: None submitted by Respondent

**PART IV: SUMMARY OF DISPUTE AND FINDINGS**

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
05-09-05 to 06-14-05	Work hardening program	<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 and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

\_\_\_\_\_  
Authorized Signature

03-09-06  
\_\_\_\_\_  
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.**

# **MATUTECH, INC.**

**PO Box 310069  
New Braunfels, TX 78131  
Phone: 800-929-9078  
Fax: 800-570-9544**

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March 6, 2006

Texas Department of Insurance  
Division of Workers' Compensation  
Fax: 512-804-4868

Re: Medical Dispute Resolution  
MDR tracking #: M5-06-0871-01  
DWC #:  
Injured Employee:  
DOI:  
IRO Certificate No. IRO5317

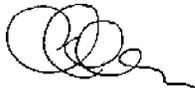
Dear Ms. Torres:

Matutech, Inc. has performed an Independent review of the medical records of the above-named case to determine medical necessity. In performing this review, Matutech reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

Matutech certifies that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him the provider, 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 Independent Review Organization.

Information and medical records pertinent to this medical dispute were obtained from Texas Health. The Independent review was performed by a matched peer with the treating health care provider. This case was reviewed by the physician who is licensed in Chiropractic, and is currently on the TWCC Approved Doctor list.

Sincerely,



John Kasperbauer  
Matutech, Inc.

## REVIEWER'S REPORT

### Information provided for review:

#### Request for Independent Review

#### Information provided by Texas Health:

Office notes (04/08/03 – 03/08/05)  
Diagnostic studies (04/30/03 – 09/30/04)  
Physical therapy (12/29/03 – 04/14/05)  
Surgeries (07/08/03, 07/28/04, 11/15/04)  
Work hardening program (05/09/05 - 06/14/05)

#### Information provided by \_\_\_\_\_ (c/o Harris & Harris):

Peer reviews (04/14/04 - 02/21/05)  
Independent medical evaluations (04/21/04 - 03/14/05)

### Clinical History:

This is a 40-year-old patient who was injured on \_\_\_\_, when he experienced lower abdominal and left testicular pain after repairing a main pipe on the job.

**2003:** Raul Rodriguez, M.D., saw the patient for left abdominal, testicle, back, and leg pain. He diagnosed epididymo-orchitis and left abdominal wall strain. Magnetic resonance imaging (MRI) of the left knee revealed probable acute partial anterior cruciate ligament (ACL) tear and probable oblique tearing of the posterior horn of the medial meniscus. MRI of the lumbar spine revealed relatively a steep angulation to the sacrum and slight facet joint prominence at L5-S1. Computerized tomography (CT) of the abdomen was unremarkable. John McConnell, M.D., performed left knee arthroscopic ACL repair, synovectomy, meniscal repair, and abrasion arthroplasty. The postoperative diagnoses were ACL sprain, synovitis, effusion, medial meniscal derangement, localized secondary arthrosis, and traumatic arthropathy. X-rays revealed ACL deficiency and medial meniscal pathology. The patient underwent postoperative physical therapy (PT) with kinetic mobilization therapy, manual therapy, and neuromuscular reeducation.

**2004:** Dr. McConnell administered a series of three Synvisc injections. He diagnosed secondary osteoarthritis and symptomatic osteoarthritis. He treated the patient with Celebrex, Flexeril, and Skelaxin. In a peer review, Brad McKechnie, D.C., rendered the following opinions. (1) The ongoing chiropractic treatment was not reasonable and necessary. (2) An appropriate plan would include transition to a home exercise program (HEP). (3) The patient could return to work at a light physical demand level (PDL). (4) The patient had not reached maximum medical improvement (MMI). Daniel Diaz, D.C., and Wayne Soignier, M.D., opined that the patient had not reached MMI. Anthony Esquibel, D.C., prescribed a knee brace and transcutaneous electrical nerve stimulation (TENS) unit. He recommended a work conditioning program (WCP). Benjamin Cunningham, M.D., diagnosed postsurgical contracture with extension and flexion and possible return of the meniscal tear or knee contracture. He recommended repeat MRI.

From May through July, the patient attended 16 sessions of PT consisting of therapeutic exercises and neuromuscular re-education. Charles Willis, M.D., saw the patient for back pain and diagnosed chronic lower back pain and lumbar facet syndrome. He recommended a work hardening program (WHP). On July 28, 2004, Dr. McConnell performed repeat arthroscopy of the left knee with meniscal repair, synovectomy, medial compartment meniscectomy, and lateral retinacular release. Postoperatively, he noted mild diffuse osteopenia on the x-rays and prescribed Celebrex. He recommended an HEP. The patient underwent functional capacity evaluation (FCE) on four occasions in which he qualified at a light-to-below sedentary physical demand level (PDL) whereas his job required a very heavy PDL. The evaluator recommended continuation of active postop care. From September through November, the patient attended 14 sessions of postop PT. On November 15, 2004, Stephen Hamm, M.D., performed abdominal exploration with repair of hernia.

**2005:** From January through April, the patient attended 32 sessions of PT. The patient underwent FCE on three occasions in which he qualified at a light-to-sedentary PDL. The evaluator recommended a psychological screening for an appropriate tertiary program and return to work with weekly psychotherapy sessions. In a behavioral evaluation, the patient was diagnosed with adjustment disorder with mixed anxiety and depressed mood. A WHP was recommended. In a peer review, Dr. McKechnie rendered the following opinions. (1) The ongoing chiropractic treatment was not reasonable and necessary as related to the injury. (2) An appropriate plan would include transition to a suitable HEP and discontinuation of outpatient rehabilitation. A designated doctor evaluation (DDE) would be recommended. (3) Further chiropractic care was not reasonable and necessary. Dr. McConnell noted persistent left knee pain and recommended strengthening exercises. He noted quad atrophy. Dr. Soignier placed the patient at clinical MMI as of March 14, 2005, and assigned 5% whole person impairment (WPI) rating. Dr. Esquibel disagreed with the above impairment rating (IR) and suggested 11% WPI rating. From May through June, the patient attended 22 days of WHP at Texas Health. On June 16, 2005, in an FCE, it was noted that the patient did not meet the maximum sedentary PDL requirements.

On August 1, 2005, in a letter from Texas Health, it was noted that the payment for WHP was not remitted.

**2006:** No medical records are available for review.

### **Disputed Services:**

Work hardening program.

### **Explanation of Findings:**

The employee in this case was treated with a protracted course of physical therapy mainly due to the left knee disorders. There were minimal objective findings related to the abdominal pain complaints and lumbar spine pain complaints.

The employee was provided a work hardening program as stated in the records (Report dated 03/03/2005 from Texas Health) and lower levels of mental health care were recommended. In a 03/09/2005 request, the treating doctor recommends a work conditioning program. On 03/14/2005, the designated doctor certified that the employee was medically static and stable (MMI) from the compensable injury. On 05/05/2005, Texas Health stated that the claimant was denied entry into a multidisciplinary program (CPMP) so another work hardening program was recommended and initiated. This was based on the belief that the second left knee surgery provided after the first work hardening program and the uneventful abdominal exploration that did not find injury or repair anything was sufficient along with the reported psychological condition to justify an intensive multidisciplinary work hardening program.

There was no objective evidence of a remarkable abdominal injury to support the need for an intensive rehabilitation program. The complaints of pain were not supported by any objective evidence of actual tissue damage. The diagnostic exploration was very limited in its scope and did not create a condition that would require an intensive multidisciplinary program.

The 2nd left knee arthroscopy was provided after the 1st work hardening program. At that duration, the employee had been through an intensive multidisciplinary program with psychological counseling. After completion of a rehabilitation program, re-enrollment or repetition in the same rehabilitation program for the same condition would not be medically warranted. Treatments that are provided after an injured employee has been certified at MMI or after a tertiary program has been provided are generally provided at a lower intensity.

**Conclusion/Decision To Uphold, Overturn or Partially Uphold/Overturn URA's denial:**

Uphold URA's decision

**Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:**

The documentation from the provider was used to arriving at the decision. The employee had received a prior work hardening program for about 6 weeks and received the appropriate psychological counseling at that time to address the psychosocial issues he was reported to have. The employee was familiar with the protocols at that time the 2<sup>nd</sup> knee surgery was provided. There were recommendations for less intensive approaches to care yet those were not done and a more intensive and expensive approach was provided. Medically necessary care is the shortest, least expensive, or least intensive level of treatment, care, or service rendered to the extent required to diagnose or treat the compensable injury. There is no dispute that a work hardening program was provided or that the employee attended those services. However, it appeared to me that the intensive program was not health care reasonably required, was not cost effective utilization of health care resources, and was repetitious to intensive treatment already provided. It appears that there was a remarkable amount of treatment provided in this case that was not supported based on Dr. McKechnie's review of the case.

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The physician providing this review is a Doctor of Chiropractic. The reviewer is certified by the National Board of Chiropractic Examiners. The reviewer has been in active practice for 22 years.

Matutech is forwarding this decision by mail and in the case of time sensitive matters by facsimile to the Texas Department of Insurance-DWC.

Matutech retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by Matutech clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the Utilization Review Accreditation Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by Matutech represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to Matutech for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Matutech assumes no liability for the opinions of its contracted physicians and/or clinician advisors the health plan, organization or other party authorizing this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

#### 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.