



## MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

### Retrospective Medical Necessity

#### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address:  Kingwood Occupational and Physical Therapy 23780 Hwy 59 N Kingwood, TX 77339	MDR Tracking No.: M5-06-0879-01 - Revised
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:  TX Mutual Insurance Company, Box 54	Date of Injury:
	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, "Services were medically necessary."

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

Documents include the DWC 60 response. Position summary states, "Texas Mutual requests that the request for dispute resolution filed be conducted under the provisions of the APA set out above."

#### 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)
7-27-05 – 9-30-05	CPT code 97140 (\$30.55-<MAR) X 48 units	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$1466.40
7-27-05 – 9-30-05	CPT code 97110 (\$32.27-<MAR) X 70 units	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$2258.90
9-30-05	CPT code 97004	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	56.03
	Grand total		\$3,781.33

#### 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 prevail on the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is \$3,781.33.

**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 carrier must refund the amount of the IRO fee (\$650.00) to the requestor within 30 days of receipt of this order. The Division has determined that the requestor is entitled to additional reimbursement in the amount of \$3,781.33. 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

3-8-06

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.**

# MATUTECH, INC.

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

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Amended (March 7, 2006)

February 21, 2006

Donna Auby  
Texas Department of Insurance  
Division of Workers' Compensation  
Fax: (512) 804-4001

Re: Medical Dispute Resolution  
MRD#: m5-06-0879-01  
DWCC#:  
Injured Employee:  
SS#:  
DOI:  
IRO Certificate No. IRO5317

Dear Ms. Auby:

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 Kingwood Occupational and Physical Therapy. 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 orthopedics, 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 Kingwood Occupational and Physical therapy:

Physical therapy notes (05/17/05 – 10/05/05)

**Clinical History:**

The patient is a male truck driver who injured his right shoulder on \_\_\_\_, while cutting the seal of a truck. He underwent therapy for two weeks and on May 4, 2005, underwent right shoulder rotator cuff repair by Gerald Gabel, M.D. On May 17, 2005, he was evaluated at the Kingwood Occupational and Physical Therapy. From May 17, 2005, through October 5, 2005, the patient attended 61 sessions of occupational therapy consisting of manual therapy techniques, therapeutic activities, therapeutic exercises, hot/cold pack application, electrical stimulation, and instructions on a home exercise program (HEP).

In a letter of reconsideration dated September 20, 2005, Karen Driggs, O.T.R., indicated that payment for the occupational therapy since May 17, 2005, had been denied since these services were not deemed a medical necessity by the payer. The therapist stated that the patient was consistent with his home program and attendance in therapy and was trying hard to return to work. He showed a consistent progress in range of motion to his right shoulder except in external rotation which progressed slowly.

Disputed DOS	CPT code	Amount billed in \$	Amount in dispute
07/27/05	97140	90	61.10
07/27/05	97110	90	64.54
07/29/05	97140	90	61.10
07/29/05	97110	135	96.81
08/01/05	97140	90	61.10
08/01/05	97110	135	96.81
08/03/05	97140	90	61.10
08/03/05	97110	135	96.81
08/05/05	97140	90	61.10
08/05/05	97110	135	96.81
08/08/05	97140	90	61.10
08/08/05	97110	135	96.81
08/10/05	97140	90	61.10
08/10/05	97110	135	96.81
Total		1530	1073.10
08/11/05	97140	90	61.10
08/11/05	97110	135	96.81
08/15/05	97140	90	61.10
08/15/05	97110	135	96.81
08/17/05	97140	90	61.10
08/17/05	97110	135	96.81
08/19/05	97140	90	61.10
08/19/05	97110	135	96.81
08/22/05	97140	90	61.10
08/22/05	97110	135	96.81
08/23/05	97140	90	61.10
08/23/05	97110	135	96.81
08/24/05	97140	90	61.10
08/24/05	97110	135	96.81
Total		1575	1105.37
08/29/05	97140	90	61.10
08/29/05	97110	135	96.81
08/31/05	97140	90	61.10
08/31/05	97110	135	96.81
09/02/05	97140	90	61.10
09/02/05	97110	135	96.81
09/06/05	97140	90	61.10
09/06/05	97110	135	96.81
09/07/05	97140	90	61.10
09/07/05	97110	135	96.81
09/08/05	97140	90	61.10
09/08/05	97110	135	96.81
09/13/05	97140	45	30.55
09/13/05	97110	90	64.54
Totals		1485	1042.55
09/16/05	97140	135	61.10
09/16/05	97110	90	64.54

09/20/05	97140	90	61.10
09/20/05	97110	90	64.54
09/28/05	97140	90	61.10
09/28/05	97110	90	64.54
09/30/05	97004	75	56.03
09/30/05	97140	45	30.55
09/30/05	97110	135	96.81
Total		795	560.31

**Disputed Services:**

Therapeutic exercises (97110) and manual therapy techniques (97140) and **97004 occupational therapy re-evaluation**. Services denied for medical necessity with denial codes 57, 247, 50, and 244.

Dates of service: July 27, 2005 through September 30, 2005.

**Explanation of Findings:**

It appears that Mr. \_\_\_ as reported above underwent rotator cuff repair in May of 2005 which was followed by a formal physical therapy program as well a home exercise program from the period of May 17, 2005 through October 5, 2005 and 61 sessions of occupational therapy. The patient has been on treatment yet the therapy has been denied payment as it has previously been determined to be not medically necessary. The patient apparently underwent rotator cuff repair followed by a very slow program consisting primarily of modalities and passive exercise followed by active range of motion and passive range of motion of the shoulder and finally by a strengthening program enlisted to provide the patient with functional strength of the shoulder.

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

After careful review of the patient's occupational therapy regiment consisting of the recommended course of gentle range of motion exercises followed by a more aggressive active assisted and active range of motion of the shoulder typically recommended for rotator cuff repairs and then finally by providing the patient with strengthening exercises to bring the shoulder to a functional strength, it does appear that the patient has been treated with reasonable care. Although the treatment sessions appear to be excessive at 61 sessions over the course of five months, it is not uncommon for a patient to require a prolonged course of rehab. It would be a mistake for the patient to have a short program of range of motion exercises and to begin strengthening of the shoulder prior to obtaining full functional range of motion of the shoulder after a rotator cuff repair. Additionally, protected motion of the shoulder is required after a tenuous repair of the rotator cuff to prevent the rotator cuff repair from failing. Also, the therapy does appear to have followed the normal recommendation for a self-directed home exercise program in conjunction with more formal occupational therapy. Therefore, my recommendation is to overturn the previous denial for the patient's occupational therapy as patients with rotator cuff repairs may require up to six months and even one year before they return to full range of motion and strength of the shoulder. Although the course of therapy for Mr. \_\_\_ appears to be drawn out and following the patient's therapy records, it does appear that he has persistent elbow contractures as well as limited range of motion of the shoulder. This required a very slow and deliberate course of therapy to provide the patient with range of motion of the shoulder beginning with passive followed by active assisted and then active range of motion. This was finally followed by a course of strengthening which is the normal recommended protocol for patients with the treatment provided for Mr. \_\_\_. **It does appear that this code (97004 occupational therapy) should be added to the list of reasonable codes and necessary care for the patient's post operative rehabilitative course**

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

As an orthopedic surgeon, I was trained with one of the most prominent orthopedic shoulder specialists in the country, Dr. Charles Rockwood, with a well-held philosophy that patients should first obtain full range of motion of the shoulder before any strengthening should be started. It took Mr. \_\_\_ some time to return to full range of motion of the shoulder and then finally to begin strengthening of the shoulder to provide him with functional range of motion and strength. Should the patient have returned to strengthening of the shoulder prior to obtaining full range of motion, he would have been left with a shoulder that was stiff and painful despite a potentially successfully rotator cuff repair. Although the patient's therapy sessions appear to have been somewhat excessive, it does appear that Mr. \_\_\_ specifically required a very slowly delivered regiment of range of motion exercises followed by strengthening to provide him with a successful surgical outcome. Therefore, I do feel that the treatment provided was not excessive and was, in fact, medically required to provide Mr. \_\_\_ with successful overall surgical outcome.

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The physician providing this review is an Orthopedic Surgeon. The reviewer is national board eligible by the American Board of Orthopedic Surgeons. The reviewer has been in active practice for 9 years.

Matutech is forwarding this decision by mail and in the case of time sensitive matters by facsimile. A copy of this finding to the provider of

records, payer and/or URA, patient and the Texas Department of Insurance.

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.