



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

|  |                                 |
|--|---------------------------------|
| <b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier  |                                 |
| Requestor's Name and Address:<br><br>Neuromuscular Institute of Texas – P. A.<br>9502 Computer Drive, Suite 100<br>San Antonio, TX 78213 | MDR Tracking No.: M5-06-0898-01 |
|  | Claim No.:                      |
|  | Injured Employee's Name:        |
| Respondent's Name and Address:<br><br>AT & T Corp, Box 19  | 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, "All therapies were provided to relieve pain and promote recovery for the injured employee's compensable injury."

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

No 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) |
|--------------------|-------------------------------------|---|--------------------------------|
| 1-28-05 – 8-25-05  | CPT code 97110 (\$33.56 X 24 units) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | \$805.44                       |
| 1-28-05 – 8-25-05  | CPT code 97140 (\$31.78 X 3 DOS)    | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | \$95.34                        |
| 2-10-05            | CPT code 97004                      | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | \$57.21                        |
| 1-28-05 – 8-25-05  | CPT codes 97035, 97112              | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 0                              |
|                    |                                     |   |                                |
|                    | Grand total                         |   | \$957.99                       |

#### 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 majority of the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is \$957.99.

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 2-6-06 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.

In a letter dated 2-2-06 the requestor states that there is no contract with this insurance company. In a letter dated 2-28-06 the agent for the respondent also states that there is no contract with this provider.

CPT code 99213 on 4-14-05 was denied by the carrier as "45-Charges exceed your contracted/legislated fee arrangement." and "97-Payment is included in the allowance for another service/procedure." The criteria for 99455-VR which was billed on this date of service states, "Work related or medical disability examination by the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report." This office visit is included in the charges for the disability examination. See note above regarding the contract issue. No additional reimbursement recommended.

CPT code 99080-73 on 8-25-05 was denied by the carrier as "45-Charges exceed your contracted/legislated fee arrangement" and "50-these are non-covered services because this is not deemed a medical necessity by the payer." Both parties have stated that there is not contract. (See note above.) The DWC-73 is a required report per Rule 129.5 and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter; Recommend reimbursement of \$15.00.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 129.5, 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 (\$460.00) to the requestor within 30 days of receipt of this order. The Division has determined that the requestor is entitled to reimbursement in the amount of \$972.99. 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

2-28-06

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 16, 2006

TX DEPT OF INS DIV OF WC  
AUSTIN, TX 78744-1609

CLAIMANT: \_\_\_  
EMPLOYEE: \_\_\_  
POLICY: M5-06-0898-01  
CLIENT TRACKING NUMBER: M5-06-0898-01 5278

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Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIoA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing 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.

**Records Received:**

**RECORDS RECEIVED FROM THE STATE:**

17 pages of records from Texas Department of Insurance

**RECORDS RECEIVED FROM THE REQUESTOR:**

1 page memo from Texas Department of Insurance dated 2/6/06  
3 page report from Neuromuscular Institute of Texas dated 2/10/06  
2 page report from Brad Burdin DC dated 10/31/01  
TWCC-73 Work Status Report from Dr. Burdin dated 10/31/01  
TWCC-73 Work Status Report from Dr. Burdin dated 2/23/05  
TWCC-73 Work Status Report from Dr. Burdin dated 4/14/05  
TWCC-73 Work Status Report from Dr. Burdin dated 5/15/05  
TWCC-73 Work Status Report from Dr. Burdin dated 7/1/05  
TWCC-73 Work Status Report from Dr. Burdin dated 7/11/05  
TWCC-73 Work Status Report from Dr. Burdin dated 8/25/05  
2 page occupational therapy initial evaluation dated 12/27/04  
2 page occupational therapy re-exam dated 2/10/05  
2 page occupational therapy re-exam dated 4/18/05  
3 page Report of Medical Evaluation from Dr. Burdin dated 2/23/05  
2 page report from Morris Lampert MD dated 3/10/05  
7 page Report of Medical Evaluation from Michael Ciepiela MD dated 3/22/05  
4 page ROM/muscle testing study dated 6/14/05  
2 page discharge summary from occupational therapy dated 6/14/05  
17 page functional capacity evaluation from Dr. Burdin dated 7/8/05

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TWCC-73 Work Status Report from Dr. Burdin dated 4/14/05  
TWCC-73 Work Status Report from Dr. Burdin dated 5/15/05  
TWCC-73 Work Status Report from Dr. Burdin dated 7/1/05  
TWCC-73 Work Status Report from Dr. Burdin dated 7/11/05  
TWCC-73 Work Status Report from Dr. Burdin dated 8/25/05  
2 page occupational therapy initial evaluation dated 12/27/04  
2 page occupational therapy re-exam dated 2/10/05  
2 page occupational therapy re-exam dated 4/18/05  
3 page Report of Medical Evaluation from Dr. Burdin dated 2/23/05  
2 page report from Morris Lampert MD dated 3/10/05  
7 page Report of Medical Evaluation from Michael Ciepiela MD dated 3/22/05  
4 page ROM/muscle testing study dated 6/14/05  
2 page discharge summary from occupational therapy dated 6/14/05  
17 page functional capacity evaluation from Dr. Burdin dated 7/8/05  
1 page report from Dr. Burdin dated 4/14/05  
1 page report from Dr. Burdin dated 5/16/05  
1 page report from Dr. Burdin dated 7/1/05  
1 page report from Dr. Burdin dated 7/11/05  
1 page report from Dr. Burdin dated 8/25/05  
5 pages of progress notes from Patrick Wilson MD  
1 page report from Dr. Wilson dated 10/12/04  
TWCC-73 Work Status Report from Patrick Wilson MD dated 10/12/04  
TWCC-73 Work Status Report from Patrick Wilson MD dated 11/23/04  
1 page Benefit Dispute Agreement dated 6/16/04  
26 pages of hospital records dated 11/17/04  
7 pages of records from San Antonio Orthopedic Group  
24 pages of records from San Antonio Injury Rehabilitation  
37 pages of progress notes from Neuromuscular Institute of Texas  
80 pages of duplicate medical records

**Summary of Treatment/Case History:**

The patient, a 46-year-old female, presented to Brad Burdin DC with complaints of bilateral hand tingling and numbness and she was diagnosed with bilateral cubital tunnel syndrome and carpal tunnel syndrome. She underwent a left carpal tunnel release surgery on 11/17/04 and she was referred back to the chiropractor for post-surgical physical therapy and rehabilitation. She was sent for an occupational therapy evaluation and taken off work through 8/25/05, when the chiropractor indicated the patient could return to work at full duty without restrictions.

The claimant underwent an initial occupational therapy evaluation on 12/27/04 and she was treated on the following dates at Neuromuscular Institute of Texas:

December 2004: 30  
January 2005: 3, 5, 6, 10, 12, 14, 18, 20, 24, 26, 28, 31  
February 2005: 2, 3, 8, 10  
  
March 2005: No therapy sessions  
April 2005: 20, 21, 27, 29  
May 2005: 4, 11, 18, 20  
June 2005: 6, 9, 10

The chiropractor performed an impairment rating evaluation with the patient on 2/23/05 and he certified her at maximum medical improvement with 6% permanent impairment as of 2/21/05.

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The patient was examined by Morris Lampert MD on 3/10/05 and she complained of pain with gripping and lifting, as well as pain while sleeping in the left wrist. She was prescribed Tylenol and sent back to the chiropractor.

The claimant underwent a designated doctor evaluation with Michael Ciepiela MD (orthopedic surgeon) on 3/22/05 and she was certified at MMI with 12% permanent impairment. The report indicated the patient's ranges of motion were identical bilaterally and orthopedic signs of carpal tunnel syndrome were absent. The neurological examination was unremarkable and the designated doctor indicated that the patient had a suitable course of postoperative rehabilitation.

She returned to Dr. Burdin on 4/14/05 and she indicated she was not much better. The examination revealed that the patient had a positive Tinel's and Phalen's signs on the left and grip strength was weak. She was referred for another 12 visits of occupational therapy. She was re-examined on 5/16/05 and she was slightly better with regard to clinical signs.

The patient underwent an occupational therapy re-examination and computerized range of motion and muscle testing study on 6/14/05 and she was discharged from treatment.

**Questions for Review:**

1. Dates of service in question are 1/28/05 to 8/25/05. Disputed services: Manual therapy technique #97140, ultrasound #97035, therapeutic exercises #97110, occupational therapy re-evaluation #97004, and neuromuscular reeducation #97112.

**Explanation of Findings:**

1. Dates of service in question are 1/28/05 to 8/25/05. Disputed services: Manual therapy technique #97140, ultrasound #97035, therapeutic exercises #97110, occupational therapy re-evaluation #97004, and neuromuscular reeducation #97112.

The use of manual therapy technique was medically necessary from 1/28/05 to 8/25/05. The occupational therapist utilized manual therapy in the form of scar massage, which was medically necessary. Postoperative 32 patients were treated at least 12 times and 65 patients were not treated with physical therapy. Physiotherapists postoperatively treated by activating joints of fingers and hand. The patients were examined one day preoperative and on an average of 9 months postoperative. Complaints of the patients, local findings, measured strength and electromyography were registered. The measured strength of the operated hand improved significantly less in patients treated with physical therapy compared to not treated patients. All other complaints and findings improved equally.

(Weitbrecht WU, Schafer W, Walter A. [Is physiotherapy useful following surgery for carpal tunnel syndrome?] *Z Orthop Ihre Grenzgeb* 1995 Sep-Oct;133(5):429-31.)

The use of ultrasound was not medically necessary from 1/28/05 to 8/25/05. The use of ultrasound in the treatment of the claimant's condition is not indicated for the treatment of carpal tunnel syndrome. Ortaz et al investigated the overall effect of repeated ultrasound treatment in carpal tunnel syndrome (CTS). Eighteen women with diagnosis of CTS in 30 hands were studied. The study concluded that ultrasound therapy in CTS was comparable to placebo ultrasound in providing symptomatic relief, and the probability of a negative effect on motor nerve conduction needs to be considered. (Oztaz O, Turan B, Bora I, Karakaya MK., Ultrasound therapy effect in carpal tunnel syndrome. *Arch Phys Med Rehabil* 1998 Dec;79(12):1540-4)

Robertson et al performed a systematic review of randomized controlled trials in which ultrasound was used to treat people with those conditions. Each trial was designed to investigate the contributions of active and placebo ultrasound to the patient outcomes measured. Depending on the condition, ultrasound (active and placebo) was used alone or in conjunction with other interventions in a manner designed to identify its contribution and distinguish it from those of other interventions. Of these randomized controlled trials, the results of 2 trials suggest that therapeutic ultrasound is more effective in treating some clinical problems (carpal tunnel syndrome and calcific tendinitis of the shoulder) than placebo ultrasound, and the results of 8 trials suggest that it is not. The authors concluded that there was little evidence that active therapeutic ultrasound is more effective than placebo ultrasound for treating people with pain or a range of musculoskeletal injuries or for promoting soft tissue healing. (Robertson VJ, Baker KG. "A review of therapeutic ultrasound: effectiveness studies" *Phys Ther* 2001 Jul;81(7):1339-50)

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The occupational therapy re-evaluation done on 2/10/05 was medically necessary.

Therapeutic exercises #97110 were medically necessary from 1/28/05 to 8/25/05. The records indicated, that despite her MMI certification, she continued to have symptoms that were amenable to continued rehabilitation treatments. A review of the initial rehab records through 2/10/05 revealed that the patient received active exercise treatments in the last 8 visits and she continued to manifest strength deficits in the left wrist/hand.

The use of neuromuscular reeducation #97112 was not medically necessary from 1/28/05 to 8/25/05. The neurological evaluations conducted over the course of the claimant's care revealed no evidence of a neurological deficit. Neuromuscular reeducation is commonly utilized for post-stroke rehabilitation and is not commonly utilized for the management of conditions similar to the claimant's. The CPT Code Book defines neuromuscular reeducation as: "neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and proprioception". The procedure is utilized to re-establish the neural link between the central nervous system and the motor system after neurological injury. As no evidence of a neural injury was noted, the use of the procedure was not consistent with the diagnoses.

**Conclusion/Decision to Certify:**

Therapeutic exercises (#97110) were medically necessary from 1/28/05 to 8/25/05.

The use of manual therapy technique (#97140) was medically necessary from 1/28/05 to 8/25/05.

The occupational therapy re-evaluation (#97004) done on 2/10/05 was medically necessary.

**Conclusion/Decision to Not Certify:**

The use of ultrasound (#97035) was not medically necessary from 1/28/05 to 8/25/05.

The use of neuromuscular reeducation (#97112) was not medically necessary from 1/28/05 to 8/25/05.

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

Weitbrecht WU, Schafer W, Walter A. [Is physiotherapy useful following surgery for carpal tunnel syndrome?] Z Orthop Ihre Grenzgeb 1995 Sep-Oct;133(5):429-31

**References Used in Support of Decision:**

The CPT Code Book

Oztaz O, Turan B, Bora I, Karakaya MK., Ultrasound therapy effect in carpal tunnel syndrome. Arch Phys Med Rehabil 1998 Dec;79(12):1540-4

Robertson VJ, Baker KG. "A review of therapeutic ultrasound: effectiveness studies" Phys Ther 2001 Jul;81(7):1339-50

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This review was provided by a Doctor of Chiropractic who is also a member of the American Chiropractic Academy of Neurology. This reviewer also holds a certification in Acupuncture. This reviewer has fulfilled both academic and clinical appointments and currently serves as an assistant professor at a state college, is in private practice and is a director of chiropractic services. This reviewer has previously served as a director, dean, instructor, assistant professor, and teaching assistant at a state college and was responsible for course studies consisting of pediatric and geriatric diagnosis, palpation, adjusting, physical therapy, case management, and chiropractic principles. This reviewer is responsible for multiple postgraduate seminars on various topics relating to chiropractics and has authored numerous publications. This reviewer has participated in numerous related professional activities including work groups, committees, consulting, national healthcare advisory committees, seminars, National Chiropractic Coalition, media appearances, and industrial consulting. This reviewer has been in practice since 1986.

MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the DWC.

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Case Analyst: Stacie S ext 577