



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

#### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: <b>A Glenn Haywood DC PO Box 242 Mabank TX 75147</b>	MDR Tracking No.: M5-06-0909-01
	Claim No.:
	Injured Worker's Name:
Respondent's Name and Address: <b>American Home Assurance Co Box 19</b>	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

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

DWC-60 package. Position summary: Treatment medically necessary to promote recovery, relieve effects of compensable injury and enable IE to maintain employment.

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

Response to DWC-60 package. Position summary: None received

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
1-11-05 to 5-5-05	97012, 97110, 98940-AT, G0283, 99212	<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:**

Medical Dispute Officer

3-22-06

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

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Date

**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.**

## IRO Decision Notification Letter

<b>Date:</b>	<b>03/21/2006</b>
<b>Injured Employee:</b>	
<b>MDR #:</b>	<b>M5-06-0909-01</b>
<b>DWC #:</b>	
<b>MCMC Certification #:</b>	<b>TDI IRO-5294</b>

### REQUESTED SERVICES:

Please review the item(s) in dispute: Mechanical traction (97012), therapeutic exercises (97110), chiropractic manipulative treatment (98940-AT), electrical stimulation (G0283) and office visits (99212).

Dates of service (DOS): 01/11/2005 to 05/05/2005

### DECISION: Upheld

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IRO MCMCIIc (MCMC) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO) to render a recommendation regarding the medical necessity of the above disputed service.

**Please be advised that a MCMC Physician Advisor has determined that your request for an M5 Retrospective Medical Dispute Resolution on 03/21/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:**

The medical necessity for the list of services listed above during the dates of service in dispute is not established.

### CLINICAL HISTORY:

Records indicate that the above captioned individual, a 45-year old female, was involved in an occupational incident, which reportedly occurred on \_\_\_\_\_. The history reveals that she reportedly was pushing boxes onto a trailer and felt a pain/pop in her back. She presented to an emergency facility several days later on 12/02/2003. She was treated with medication management and released. Follow up visits were apparently established with either her primary care physician (PCP) or the company doctor. MRI examination dated 12/20/2003 was reportedly within normal limits. The injured individual eventually sought chiropractic care under the administration of the current Attending Physician, Dr. Haywood on 05/12/2004. Chiropractic care ensued consisting of manipulative treatment with passive adjunctive therapy. A number of consultative visits resulted in additional medication management and/or injection therapy. A later CT scan dated 03/25/2005 revealed a protrusion at L4/5 with no obvious myelopathy or mass effect. There is no evidence that any neurodiagnostic examinations were performed.

### REFERENCE:

ACOEM Guidelines. Second Edition. American College of Occupational and Environmental Medicine.

### RATIONALE:

The documentation fails to establish the medical necessity for continuing chiropractic care as of 01/11/2005. Specifically, as of 01/11/2005 the injured individual had completed some eight months of chiropractic care. This duration of care would exceed standards of care and practice within the chiropractic profession for the treatment of non-specific, uncomplicated soft tissue injuries to the low back. There were no clear identifiable complicating factors revealed in the documentation to warrant a protracted course of care or to warrant continuing care as of 01/11/2005. The injured individual was more than two years post injury as of 01/11/2005 and had completed more than fifty chiropractic treatments and an additional course of physical therapy prior to the initiation of chiropractic care. Given the mechanism of injury and lack of positive results from advanced testing, the course of chiropractic care up to 01/11/2005 is more than an adequate course of care to progress the injured individual to a pre-injury status, or to determine that chiropractic care is not proving to be beneficial, or to develop the rationale for continuing care. In this case, there is simply little to no objective evidence that the injured individual was continuing to experience lasting and significant benefit

from the course of care administered. Subjective pain levels on 06/07/2004 were 3/10. Outside of numerous exacerbations, subjective pain levels remained more or less at this same level, evidence by daily notes dated 09/20/2004, the final date submitted for review, which listed subjective pain levels at 3/10.

From an objective standpoint, the documentation is nearly devoid of any comparative objective data from which to determine if the injured individual was experiencing therapeutic relief. The initial date of chiropractic service, 05/12/2004, revealed decreased ranges of motion in lumbar right and left lateral flexion. On 09/14/2005, the only other date of service during which additional objective data was collected and recorded, additionally decreased ranges of motion were demonstrated. This further establishes that the injured individual was simply not satisfactorily responding to care to warrant an additional course of care. Furthermore, there are many dates of service in which exacerbations or regressions are recorded. It does not appear that any provocative incidents were responsible for the exacerbations/regressions.

Lastly, two comparative performance exams dated 04/02/2004, 06/01/2004 and 03/24/2005 reveals that the injured individual tested in the sedentary category on 04/02/2004, light on 06/01/2004 and back to sedentary on 03/24/2005. Furthermore, there was some information and opinions in these exams as well as other independent examinations, which suggested that the injured individual was demonstrating less than maximal effort.

In light of the arguments raised in the above discussion and consistent with widely accepted guidelines including ACOEM, the medical necessity for the above captioned course of care in question is not established.

#### **RECORDS REVIEWED:**

Notification of IRO Assignment dated 02/08/06

MR-117 dated 02/08/06

DWC-60

DWC-24: Benefit Dispute Agreement dated 12/28/04

DWC-69: Reports of Medical Evaluation dated 06/07/05, 05/16/05 and one with Date of Exam 12/22/04

DWC-73: Work Status Reports dated 12/04/03 through 01/03/06 and six undated reports

PRM-01A dated 11/17/04

Alternate DCW-62: Explanation of Benefits for dates of service 01/11/05 through 05/05/05

MCMC: IRO Medical Dispute Resolution M5 Retrospective Medical Necessity dated 02/21/06

MCMC: IRO Acknowledgment and Invoice Notification Letter dated 02/09/06

Arkansas Claims Management, Inc.: Letter dated 02/14/06 from Raina Robinson, IRO Coordinator

Claims Management, Inc: Independent Review Organization Summary dated 02/14/06

Center for Fracture Treatment and Orthopedic Surgery: Follow up notes dated 01/31/06, 07/21/05, 04/28/05 from Kenneth Bayles, D.O.

Consilium MD: Reviews dated 11/30/05, 05/19/05, 04/11/05, 03/22/05, 03/08/05, 02/24/05, 01/25/05 from Phillip Osborne, M.D.

Consilium MD: Review dated 10/20/05 from Melissa Tonn, M.D.

Physicians Choice LLC: Requests for Reconsideration dated 10/01/05, 03/14/05, 02/09/05 (two), 02/08/05, 11/30/04 from Tammy Orr, CCS-P

Medical Dispute Resolution Findings and Decision dated 08/12/05 from Dee Torres

Lisa Maquire, Esq.: Notice of Independent Review Decision-Amended Decision dated 07/22/05

Consilium MD: Reviews dated 05/03/05, 04/21/05, 03/15/05 from Michael Hamby, D.C.

Canton Healthcare Systems: Designated Doctor Examination Follow-Up dated 04/27/05 from Ronald Davis, D.O.

Consilium MD: Reviews dated 04/14/05, 02/23/05, 02/17/05, 02/07/05, 01/17/05 from Bobby Enkvetchakul, M.D.

Charles E. Willis, II, M.D.: Initial Consultation Report dated 03/31/05

Preferred Open MRI: CT L-spine dated 03/25/05

M.D. Rehab of Texas: Physical Performance Evaluation dated 03/24/05 from Mark Dodson, P.T.

Center for Fracture Treatment and Orthopedic Surgery: Letter dated 03/10/05 from Kenneth Bayles, D.O.

Center for Fracture Treatment and Orthopedic Surgery: Report dated 03/10/05 from Kenneth Bayles, D.O.

Kenneth S. Bayles, D.O.: Prescription note dated 03/10/05

A. Glen Haywood, D.C.: Interim Report dated 03/08/05

Dr. Glen Haywood: Disability Notice dated 03/08/05 and one undated

A-Medical Advantage: Designated Doctor Examinations dated 05/25/05, 03/28/05, 12/22/04 from Ronald Davis, D.O.

Physicians Choice LLC: Requests for Reconsideration dated 01/10/05, 11/19/04 from A. Glen Haywood, D.C.  
Prime Opinion Response Form dated 12/13/04  
Consilium MD: Review dated 11/09/04 from Brad Hayes, D.C.  
Member Profile Report dated 11/05/04  
Tyler Neurosurgical Associates: Initial Consultation dated 10/28/04 from Robert Sutherland, M.D.  
A. Glen Haywood, D.C.: Report dated 09/13/04  
Clinical Data General (handwritten) dated 09/08/04  
Mark Dodson, PT: Report dated 06/01/04 (only pages available were Physical Demand Characteristics of Work and Summary of Current Functional Abilities)  
A. Glen Haywood, D.C.: Update Reports dated 05/21/04 through 02/03/05  
DWC: Payment of Compensation or Notice of Refused/Disputed Claim dated 05/12/04  
A. Glen Haywood, D.C.: Letter dated 07/13/04  
A. Glen Haywood, D.C.: Request for Treatment dated 05/12/04  
A. Glen Haywood, D.C.: Additional Request for Review dated 05/12/04  
Musculo-Skeletal Examination dated 05/12/04  
Haywood Chiropractic Clinic: Chiro Exam-Daily Notes dated 05/12/04 through 05/05/05  
ETMC: Daily procedures notes dated 04/26/04 through 05/06/04  
Bernie L. McCaskill, M.D.: Office notes dated 04/23/04, 04/09/04, 03/26/04, 03/04/04, 01/30/04, 01/06/04  
ETMC Rehabilitation Center: FCE dated 04/12/04 (only page 1 was available)  
AR Claims Management, Inc.: Report dated 04/06/04 with attached Job Duties Questionnaire  
P.I. Solutions: Privileged and Confidential Reports dated 04/02/04, 03/18/04 from Richard Riley, Chief Operating Officer  
Job Duties Questionnaire signed 03/15/04  
Specific and Subsequent Medical Report (handwritten) dated 01/06/04  
PCA-Gun Barrell RHC: Progress Notes (handwritten) dated 12/29/03 through 02/27/04  
ETMC: PT S.O.A.P. Flowsheets dated 12/24/03 through 04/02/04  
ETMC: Patient Subjective History Forms dated 12/24/03, 09/21/04  
ETMC: Physical Therapy Evaluation Lumbar Spine/Lower Quarter dated 12/24/03, 09/21/04  
ETMC: Outpatient Rehabilitation Assessment and Progress Records dated 12/24/03, 03/23/04, 09/21/04  
East Texas Medical Center Athens: MRI L-spine dated 12/20/03, lumbar spine radiographs dated 12/03/03  
Clay Caldwell, NP: Office notes (handwritten) dated 12/15/03, 12/08/03, 12/04/03  
ETMC Athens: Lab report dated 12/03/03  
East Texas Medical Center: Patient Discharge Instructions dated 12/03/03 (two pages)  
East Texas Medical Center: Emergency Physician Record dated 12/02/03  
ETMC Regional Trauma System: Medical Records dated 12/02/03  
Employer's First Report of Injury or Illness dated

**The reviewing provider is a Licensed/Boarded Chiropractor and certifies that no known conflict of interest exists between the reviewing Chiropractor 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 prior to referral to the IRO. The reviewing physician is on DWC's Approved Doctor List.**

**This decision by MCMC is deemed to be a Division decision and order (133.308(p) (5)).**

### **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.

**In accordance with Division rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of DWC on this**

**21<sup>st</sup> day of March 2006.**

**Signature of IRO Employee:** \_\_\_\_\_

**Printed Name of IRO Employee:** \_\_\_\_\_