



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

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier	
Requestor's Name and Address:	MDR Tracking No.: M5-06-0980-01
Dr Suhail Al-Sahli 1210A NASA Rd 1 Houston TX 77058	Claim No.:
	Injured Worker's Name:
	Date of Injury:
Respondent's Name and Address: Texas Mutual Insurance Box 54	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DWC-60 package. Position summary: Treatment was properly documents for medical necessity.

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Response to DWC-60 package. Position summary: Carrier requests that this request be conducted under provisions of the APA.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
7-6-05 to 9-19-05	97113	<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

3-31-06

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 Medical Dispute Resolution M5 Retrospective Medical Necessity
IRO Decision Notification Letter**

Date:	03/30/2006
Injured Employee:	
MDR #:	M5-06-0980-01
DWC #:	
MCMC Certification #:	TDI IRO-5294

REQUESTED SERVICES:

Please review the item(s) in dispute: Aquatic Therapy (97113).

Dates of service: 07/06/2005 through 09/19/2005.

DECISION: Upheld

IRO MCMCllc (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 03/30/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity for the item in dispute, aquatic therapy, from 07/06/2005 through 09/19/2005 is not established.

CLINICAL HISTORY:

Records indicate that the above captioned individual, a 47-year-old male, reportedly sustained a work-related injury on _____. The history reveals that during the normal course of his employment he was on a lift which was struck by another lift throwing him around in the cage of the lift. He struck his abdomen and eventually his low back. He was evaluated by a physician who recommended emergency treatment. He was eventually transported to an emergency facility where radiographs were negative. He was initially prescribed passive and active care, however there is no evidence that it was administered until 07/06/2005. MRI findings of a low back examination dated 06/28/2005 revealed two protrusions in the low back at L4-5 and L5-S1 with anterolisthesis and a bilateral pars defect. During the initial examination prior to the application of the course of care in question, the injured individual reported pain levels of 8-9/10 and reported symptoms of psychosocial overlay. He has been treated with medication management, chiropractic management, passive care and aquatic therapy. Some attempts were made at injection therapy, however a blood sugar issue arose which interfered with the application of epidural steroid injections (ESI's).

REFERENCES:

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

Texas Medical Fee Guidelines.

RATIONALE:

A review of the submitted documentation does not establish the medical necessity for the application of aquatic therapy from 07/06/2005 through 09/19/2005. Specifically, the documentation does not demonstrate the need for this upper level service as opposed to a less intensive land based program of passive and active care. A less intensive program should always be attempted unless there are specific contraindications or specific situations which would preclude the application of the less intensive program. In this particular case, there is no expressed and clear reason or rationale why the aquatic therapy was chosen over the less intensive land based program. Also there is no documentation that a less intensive land based program was considered or attempted. Even if there was a perceived reason or rationale for the application of the higher level of care, an attempt should have

been made to apply the less intensive treatment option. The documentation reveals that on or about 06/03/2005 a prescription was given for passive modalities and therapeutic activities, however there is no indication if this course of care was applied or what response to care was observed and recorded.

Additionally, it is revealed in the documentation before the consideration of aquatic therapy, that the injured individual was experiencing psychosocial issues. An assessment dated 07/05/2005 states that the injured individual's "affect was flat... he is experiencing bouts of insomnia and high level of anxiety". These psychosocial issues could be reasonably expected to negatively affect the success of this upper level active program and should have been addressed prior to the application or at least concurrent with the program.

Lastly, there are no indications, from a retrospective standpoint, that any follow-up examinations were performed to ascertain if the aquatic therapy was proving to be beneficial and that additional participation in the program was warranted.

RECORDS REVIEWED:

- Notification of IRO Assignment dated 02/21/06
- MR-117 dated 02/21/06
- DWC-60
- MCMC: IRO Medical Dispute Resolution M5 Retrospective Medical Necessity dated 03/01/06
- MCMC: IRO Acknowledgment and Invoice Notification Letter dated 02/21/06
- N.B.C. Health Care Center: Letter dated 02/28/06 from Suhail Al-Sahli, C.E.O.
- NBC Health Care Center: Check #3810 dated 02/28/06
- Texas Mutual: Letter dated 02/15/06 (only the first page was available)
- Texas Mutual: Explanation of Benefits with Dates of Audit 12/16/05 through 08/19/06 for services performed 07/06/05 through 09/14/05
- N.B.C. Health Care Center: Requests for Reconsideration for Post Injection Therapy dated 11/14/05, 11/09/05 from Lawrence Caudell, Jr., D.C.
- N.B.C. Health Care Center: Requests for Reconsideration dated 11/03/05, 11/02/05 from Lawrence Caudell, Jr., D.C.
- Nassau Bay Rehab: Aqua Therapy Daily Progress Notes dated 09/19/05, 09/14/05, 09/07/05, 08/31/05, 08/29/05, 08/24/05, 08/22/05, 07/13/05, 07/11/05, 07/08/05, 07/06/05
- Texas Pain Solutions: Reports dated 09/02/05, 08/19/05, 07/01/05 from Rezik Saqer, M.D.
- Vista West Surgical Center: Procedure Report dated 08/25/05 from Rezik Saqer, M.D.
- Nassau Bay Rehab: Clinical Interview dated 08/17/05 from Sari Meltzer, Ph.D.
- Nassau Bay Rehab: Aqua Therapy Initial Evaluation and Letter of Medical Necessity dated 07/05/05 from Lawrence Caudell, Jr., D.C.
- C.L.C. Health Care Center: Letters dated 07/01/05, 06/30/05, 06/21/05, 06/17/05 from Dr. Suhail Al-Sahli
- Texas Pain Solutions: Prescription note dated 07/01/05
- Stand-Up MRI of Clear Lake: MRI lumbar spine dated 06/28/05
- Texas Pain Solutions: Initial Visit Comprehensive Evaluation dated 06/17/05 from Rezik Saqer, M.D.
- Undated article entitled, "Aquatic therapy Exercise"
- Adopted Medical Fee Guideline effective 04/01/96 entitled, "Medicine Ground Rules"

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

30th day of March 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____