



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

<b>Type of Requestor:</b> ( X ) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: Summit Rehabilitation 2420 E. Randol Mill Road Arlington, Texas 76011	MDR Tracking No.: M5-06-1101-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: New Hampshire Insurance Company Rep Box # 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

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

DOCUMENTATION SUBMITTED: DWC-60 dispute package

POSITION SUMMARY: "Provider sent a request for reconsideration on January 10, 2005. Proof that carrier received request is also included. Carrier chose not to respond within 28 day time frame rule. TWCC Rule 133.307(j)(2) says only the reason brought up by carrier can be heard at MDR. SOAH decisions say if the carrier doesn't care to respond then they lose their opportunity to put in a reason. If no reason is put in by carrier as to the denial the commission puts is as an "F". All Fee guidelines have been followed".

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

DOCUMENTATION SUBMITTED: Response to DWC-60

POSITION SUMMARY: "The current dispute involves dates of service from 05/17/05 through 12/05/05. First the provider claims that no EOBs exist for DOS 9/2/05, 9/22/05, 11/16/05 and 12/05/05. However the provider offers no proof that the bills were sent or resubmitted to the carrier. Carrier denies this. The remainder of the disputed services are either global to other services, not medically necessary and/or outside the fee guidelines. See attached EOBS".

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
05-17-05, 06-01-05, 07-26-05, 08-16-05 and 09-15-05	95833 (Service was found to be medically necessary by the IRO, however this code is global to CPT code 99213 billed on the same dates of service. No reimbursement recommended)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$0.00
05-25-05, 08-09-05 and 09-15-05	95851 (Service was found to be medically necessary by the IRO, however this code is global to CPT code 99213 billed on the same dates of service. No reimbursement recommended)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$0.00
11-03-05	99080-73	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$15.00
06-03-05	97110 (3 units @ \$108.42 – payment of \$34.92 = \$73.50) (requestor listed \$69.87 in dispute)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$69.87
<b>TOTAL</b>			<b>\$84.87</b>

#### 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 **majority** of disputed medical necessity issues.

CPT code 99080-73 date of service 09-02-2005 listed on the table of disputed services was indicated to have been paid by the carrier. The Requestor was contacted and verification was made that the service was paid, therefore, this service will not be a part of the review.

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

28 Texas Administrative Code Sec. 133.308, 134.202 and 129.5

**PART VII: DIVISION DECISION AND ORDER**

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 entitled to additional reimbursement in the amount of \$84.87. In addition, the Division finds that the requestor was not the prevailing party and is not entitled to a refund of the IRO fee. 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.

Ordered by:

05-19-06

\_\_\_\_\_  
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.**



## CompPartners Final Report ACCREDITED EXTERNAL REVIEW

CompPartners Peer Review Network  
Physician Review Recommendation  
Prepared for TDI/DWC

**Claimant Name:** \_\_\_\_\_  
**Texas IRO # :** \_\_\_\_\_  
**MDR #:** M5-06-1101-01  
**Social Security #:** \_\_\_\_\_  
**Treating Provider:** Luz Gonzalez, DC  
**Review:** Chart  
**State:** TX  
**Date Completed:** 4/18/06  
**Date Amended:** 5/18/06

### Review Data:

- Notification of IRO Assignment dated 3/16/06, 1 page.
- Receipt of Request dated 3/16/06, 1 page.
- Medical Dispute Resolution Request/ Response dated 2/14/06, 2 pages.
- List of Treating Providers (date unspecified), 1 page.
- Table of Disputed Services dated 12/5/05, 11/29/05, 11/22/05, 11/16/05, 11/4/05, 11/3/05, 11/1/05, 10/24/05, 10/20/05, 10/12/05, 10/3/05, 9/29/05, 9/27/05, 9/23/05, 9/22/05, 9/20/05, 9/15/05, 9/14/05, 9/13/05, 9/6/05, 9/2/05, 8/31/05, 8/26/05, 8/18/05, 8/16/05, 8/12/05, 8/10/05, 8/9/05, 7/29/05, 7/26/05, 6/3/05, 6/1/05, 5/25/05, 5/17/05, 4 pages.
- Invoices dated 12/5/05, 11/29/05, 11/22/05, 11/16/05, 11/4/05, 11/3/05, 11/1/05, 10/24/05, 10/20/05, 10/12/05, 10/3/05, 9/29/05, 9/27/05, 9/23/05, 9/22/05, 9/20/05, 9/15/05, 9/14/05, 9/13/05, 9/6/05, 9/2/05, 8/31/05, 8/26/05, 8/18/05, 8/16/05, 8/12/05, 8/10/05, 8/9/05, 7/29/05, 7/26/05, 6/3/05, 6/1/05, 5/25/05, 5/17/05, 24 pages.
- Letter of Medical Dispute dated 3/27/06, 2 pages.
- Legal Letter dated 3/9/06, 2 pages.
- Case Review dated 1/25/06, 8/29/05, 4 pages.
- Doctor Position Statement for IRO Regarding Medical Necessity Denial dated 3/23/06, 3 pages.
- Lumbar Discogram dated 11/9/05, 2 pages.
- Lumbar CT Scan dated 11/9/05, 2 pages.
- Initial Consultation dated 6/22/05, 3 pages.
- Procedure Report dated 9/12/05, 8/5/05, 7/22/05, 6 pages.
- Office Visit dated 11/1/05, 10/3/05, 9/13/05, 3 pages.
- Ergos Evaluation dated 8/26/05, 9 pages.
- SOAP Notes dated 11/29/05, 11/16/05, 11/4/05, 9/29/05, 9/27/05, 9/23/05, 9/20/05, 9/15/05, 9/14/05, 9/13/05, 9/6/05, 8/31/05, 8/26/05, 8/18/05, 8/16/05, 8/12/05, 8/11/05, 8/9/05, 7/29/05, 7/26/05, 52 pages.
- Texas Workers' Compensation Work Status Report dated 6/4/05, 2 pages.
- Range of Motion Examination dated 9/15/05, 8/9/05, 5/25/05, 16 pages.
- Physical Examination/ Neurological Evaluation dated 8/26/05, 1 page.
- Isometrical Muscle Testing dated 8/16/05, 7/26/05, 6/1/05, 5/17/05, 19 pages.

**Reason for Assignment by TDI/DWC:** Determine the appropriateness of the previously denied request for:

1. Therapeutic exercises (97110).
2. Manual therapy technique (97140).
3. Office visit (99213).
4. DWC-73 (99080-73).
5. Electrical stimulation (G0283).
6. Massage (97124).
7. Gait training (97116).
8. Manual muscle testing (95833).
9. Range of motion testing (ROM) (95851).

10. Physician review of computer based motion analysis (96004).

11. Exercise equipment (A9300).

12. Functional Capacity Evaluation (FCE) (97750-FC).

**Dates of service from 5/17/05 to 12/5/05.**

**Determination: PARTIAL**

**REVERSED** – Therapeutic exercises (97110), dates of service 6/3/05 and 7/29/05.

Manual muscle testing (95833), dates of service 5/17/05, 6/1/05, 7/26/05, 8/16/05, and 9/15/05.

Range of motion testing (95851), dates of service 5/25/05, 8/9/05, and 9/15/05. DWC-73 (99080-73).

**UPHELD** - Therapeutic exercises (97110) dates of service 8/10/06 to 11/4/05.

**UPHELD** - Office visit (99213).

Electrical Stimulation (G0283).

Massage (97124).

Gait training (97116).

Manual therapy technique (97140).

Physician review of computer based motion analysis (96004).

Exercise equipment (A9300).

Functional Capacity Evaluation (FCE) (97750-FC).

**Dates of service 5/17/05 to 12/5/05.**

**Rationale:**

**Patient's age:**

**Gender:**

**Date of Injury:** \_\_\_\_

**Mechanism of Injury:** When walking across a conveyor belt, he fell backwards resulting in injury to his lower back.

**Diagnoses:** Lumbar disc disorder, myalgia/myositis, and neuralgia/neuritis/radiculitis.

The claimant presented to the office of Dr. Gonzales on 4/14/2005, complaining of lower back pain. The claimant underwent an initial course of passive and active therapy. According to an 8/29/2005 peer review, the claimant received 21 chiropractic treatments from 5/12/2005 through 8/1/2005. It appeared that this included active physical therapy. On 6/9/2005, the claimant underwent a lumbar MRI. This test revealed a 2-3 mm broad-based disc protrusion L5-S1, and a 1-2 mm broad-based annular bulge at L4-5. On 6/22/2005, the claimant presented to the office of Dr. Farhat for a pain management consultation. The recommendation was for continued therapy in addition to lumbar epidural steroid injections. On 7/22/2005, the claimant underwent a lumbar epidural steroid injection, followed by two post injection therapy treatments. On 8/5/2005, the claimant underwent a second lumbar epidural steroid injection, followed by 7 post injection therapy treatments. Finally, on 9/12/2005, the claimant underwent a third epidural steroid injection, followed by 6 post therapy treatments. On 10/3/2005, the claimant returned for a pain management follow-up with Dr. Farhat. The report indicated that "the epidural steroid injection I did on him did not help." The recommendation was for lumbar facet joint injections in addition to continued medication and stretching exercises. On 11/1/2005, the claimant underwent a series of trigger point injections in addition to L4-5 and L5-S1 facet joint injections. This was followed by post injection therapy. A review of the clinical notes for dates of service 7/26/2005 through 12/5/2005 revealed that the claimant's pain levels increased from 5 out of 10 to 6 out of 10, despite receiving 3 epidural steroid injections, trigger point injections, and an extensive course of rehabilitation. On 11/9/2005, the claimant underwent a lumbar discogram with post CT scan. The discogram revealed concordant pain at L5-S1. The post CT scan revealed a broad-based right paracentral radial tear extending to the posterior annulus and contiguous with an approximately 3-4 mm central to right parasagittal soft tissue disc protrusion/extrusion. There was also a 1-2 mm annular bulge at L4-5. During the course of treatment, the claimant underwent periodic evaluations that included computerized isometric muscle strength testing, in addition to range of motion testing. On 8/26/2005, the claimant underwent a Functional Capacity Evaluation. The results revealed that the claimant was functioning at a light physical demand level. The claimant's job required PDL was heavy. On 8/29/2005, a peer review was performed and the recommendation was for a trial of 12 sessions of chiropractic applications. The reviewer stated that "there is no qualitative/quantitative data that supports management of this claimant's condition with manipulation based therapeutics beyond an initial controlled trial of 12 sessions." The reviewer further indicated that "epidural steroid injections series performed by a board certified pain management physician is appropriate. Following the injection series or the lumbar spine a 2-3 session trial of

physical therapy applications would be appropriate to implement a home rehabilitation program for the control of lumbar pain generators."

The purpose of this review is to determine the medical necessity for disputed items for dates of service 5/17/2005 through

12/5/2005.

The medical necessity for manual muscle testing and range of motion, CPT Codes 95833 and 95851, can be considered medically necessary and appropriate. In order to assess the claimant's improvement, ranges of motion findings and muscle testing are considered appropriate.

The necessity for the code 96004, physician review of computer-based motion analysis was not established. This analysis is a component of the E/M code 99213. Therefore, this reviewer recommends non-certification of this procedure. The medical necessity for passive therapies, including electrical muscle stimulation, G0283, myofascial release, 97140, and massage, 97124 for all dates in question was not established. The claimant was well past the acute phase of care where the continued delivery of passive therapies could be considered appropriate.

The epidural steroid injection performed on 7/22/2005, was considered appropriate by peer review. 7/29/2005 can be considered medically necessary. A brief course of post injection therapy is considered appropriate. Therefore, the two treatments dated 7/26/2005 and 7/29/06 can be considered medically necessary and appropriate. In order for additional injection treatments to be considered appropriate, there must be a 50% improvement in the claimant's condition following the initial injection. A review of the treatment record revealed that the claimant received no improvement as a result of the initial injection. Despite this absence of improvement, a second injection was performed on 8/5/2005. Again, this was followed by a course of post injection therapy. A review of the treatment record for dates of service 8/9/2005 through 8/18/2005 revealed no improvement or change in the claimant's condition. This would be anticipated given the failure of the initial epidural injection to provide any benefit. A third injection was performed on 9/12/2005. Again, this was followed by a course of active physical therapy. This treatment also failed to bring about any subjective improvement in the claimant's condition.

Dr. Farhat noted in his 10/3/2005 report that the epidural injections did not help. Therefore, the medical necessity for treatments beyond 7/29/2005 was not established. This includes weekly evaluation and management services utilizing E/M code 99213, therapeutic exercises, 97110 and gait training, 97116. These treatments clearly failed to bring about any improvement in the claimant's condition following the initial injection. The medical necessity for the continued delivery of these therapies beyond 7/29/2005 was not established. Subjectively, the claimant's complaints remained consistent at 5-6 out of 10 on the visual analogue scale. While a review of the range of motion findings revealed improvement in the range of motion findings from 5/25/2005 through 8/9/2005, the improvement from 8/9/2005 through 9/15/2005 is that which would be anticipated by the normal course of healing alone. This suggests that the claimant's condition had plateaued on 8/9/2005 and is consistent with the remaining clinical record. In summary, the medical necessity for treatment beyond 7/29/2005, including active and passive therapies and weekly office evaluations, was not established.

The medical necessity for the exercise equipment A9300 for date of service 9/13/2005 was not established. A review of the submitted SOAP notes fails to document what this device was or what the purpose of this device was. Therefore, the medical necessity for this equipment was not established.

The DWC-73 is a work status report complete by the treating provider. Texas Workers' compensation regulations require that the treating provider provide periodic work status reports. The provider fulfilled his obligation by providing periodic Work Status reports. These reports can be considered medically necessary and appropriate.

The medical necessity for the functional capacity evaluation performed on 8/26/2005 was not established. A review of the provider's SOAP notes given the no rationale for performing a functional capacity evaluation at that time. Functional Capacity Evaluations are designed to determine the claimant's functional status for consideration of a work hardening or work conditioning return to work program. It is clear from the SOAP notes that there was no plan on performing a return to work program or changing the treatment protocol. Therefore the functional capacity evaluation was not medically necessary.

**Criteria/Guidelines utilized:** ACOEM Guidelines, 2<sup>nd</sup> Edition, Chapters 6 and 12.

**Physician Reviewers Specialty:** Chiropractor

**Physician Reviewers Qualifications:** Texas Licensed D.C. and is also currently listed on the TDI/DWC ADL list.

**CompPartners, Inc. hereby certifies that the reviewing physician or provider has certified that no known conflicts of interest exist 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 the decision before the referral to CompPartners, Inc.**

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.