



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

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier	
Requestor's Name and Address: Barbara K. Nedry, D.C. P O BOX 75250 Houston, Texas 77234-5250	MDR Tracking No.: M5-06-1120-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: ACE American Insurance Rep Box # 15	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: Per the Table of Disputed Services "Treatment was medically necessary to reduce pain level, increase range of motion in effort to relieve effects postoperatively of a compensable injury".

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60 dispute

POSITION SUMMARY: None submitted by Respondent

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
02-24-05 to 05-22-05	98941, 97110, 97016, G0283, 97012, 98943, 99214, 99080, 99212, 95851, 97535, A4595 and 97035	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
05-23-05 to 06-15-05	G0283 (\$14.56 X 11 DOS) 97035 (\$15.53 X 2 DOS) 99214 (\$105.45 X 1 DOS) 99080 (\$15.00 X 1 DOS) 97110 (2 units @ \$71.72 X 4 DOS) 97110 (3 units @ \$107.58 X 5 DOS) 99212 (\$49.41 X 2 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$160.16 \$31.06 \$105.45 \$15.00 \$286.88 \$537.90 \$98.82
05-23-05 to 06-15-05	97016 97110 (more than 3 units per date of service)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
	TOTAL		\$1,235.27

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 the disputed medical necessity issues.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 and 134.202

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 reimbursement in the amount of \$1,235.27. 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:

06-14-06

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.

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

Date:	04/26/2006 Amended 06/08/2006
Injured Employee:	
MDR #:	M5-06-1120-01
DWC #:	
MCMC Certification #:	TDI IRO-5294

REQUESTED SERVICES:

Please review the item(s) in dispute: Were the chiropractic manipulations 98941, 98943, therapeutic exercises 97110, vasopneumatic devices 97016, electrical stimulation G0283, DWC report 99080-73, mechanical traction 97012, office visit 99214 & 99212, range of motion 95851, self-care/home management training 97535, Electrical Stimulator supplies, 2 lead, per month A4595, and ultrasound 97035 from 02/24/2005 from 06/15/2005 medically necessary?

DECISION: Partial

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 04/26/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity for the services listed above from 02/24/2005 through 05/22/2005 is not established. However a course of post surgical therapy from 05/23/2005 to 06/15/2005 including diagnostic services including intake examination and range of motion testing/reporting, therapeutic exercises, electrical stimulation and ultrasound is established. The medical necessity for the TENS and/or associated supplies is not established for any date of service.

CLINICAL HISTORY:

Records indicate that the above captioned individual, a 37-year-old male, was reportedly injured as the result of an occupational incident on _____. The history reveals that he was carrying a tray of glassware during the course of his normal employment and twisted and bent and felt acute pain in his low back. He was treated with medication management at a local emergency facility. He presented to the office of the attending physician (AP) on 03/08/2004 and a course of chiropractic management was initiated. An MRI of the low back dated 04/19/2004 indicated the presence of protrusions at L4/5 and L5/S1 with associated stenosis. Electrodiagnostic testing on 01/25/2005 revealed the presence of lumbar radiculopathy with strong clinical correlation to the other advanced testing and symptomatology. The injured individual underwent a series of at least two epidural injections dating on or about 01/15/2005 and 02/13/2005. Surgery was eventually performed on 04/29/2005. A course of post-surgical therapy was initiated. Numerous consultative referrals are reflected in the documentation.

REFERENCES:

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

Texas Medical Fee Guidelines.

RATIONALE:

The injured individual initiated care under the administration of the attending physician (AP) on 03/08/2004. As of the first date of service under dispute, 02/24/2005, the injured individual had already completed a protracted course of care over the course of almost a year. It is documented that the injured individual had associated complicating factors evidenced by advanced testing, however even with the documented complicating factors, as of 02/24/2005, the reasonably expected duration of the application of chiropractic care had long since passed. Furthermore, there are no clear indications that the injured individual was continuing to make significant progress to warrant the continued application of chiropractic care. Comparative objective as well as subjective findings do not clearly establish ongoing efficacy and therapeutic gain. It is evident, however that the injured individual underwent a series of epidural steroid injections beginning in January of 2005. This could possibly establish the medical necessity for the application of post injection therapy. However in this particular case, the provider supplied information that the course of post injection therapy was initiated due to an exacerbation of symptomatology as a result of the injections. The documentation does not establish that there were any associated exacerbations at the time or shortly after the application of the first or second injection. Subjective symptomatology was reported to be consistent throughout the time of the injections and objective symptomatology was not clearly improved or exacerbated. Furthermore, there is no associated intake examination at the commencement of post injection therapy to establish the presenting symptomatology or to provide a baseline of objective data from which to later ascertain if ongoing progress was being achieved. Therefore, the medical necessity for the course of care represented by dates of service 02/24/2005 through 05/22/2005 is not established.

Surgery was performed to the low back on 04/29/2005. Consistent with many pertinent studies and standards of practice and care, a short trial of post surgical therapy would be warranted and certified as medically necessary. Beginning on 05/23/2005, the date of the intake examination, and lasting through 06/15/2005, the last date of service in dispute, a course of initially passive care, transitioning into active care would be warranted. This would also include an intake examination and subsequent examinations at two to four week intervals and associated diagnostic services including range of motion studies. Also included would be electrical stimulation and ultrasound as well as therapeutic exercises, up to three units per date of service. Given the fact that the previous 15 months of chiropractic intervention was not shown to be efficacious for this particular injured individual, no manipulative therapy would be warranted during the dates in dispute.

In regards to the application of TENS and/or the associated supplies, there is no documentation to support the ongoing usage of this device and supplies. There are no indications within the documentation that a successful clinical trial was achieved or any daily notes to establish or indicate the response to said therapy.

In regards to the vasopneumatic device, there is no documentation evidence of significant edema or that would necessitate the utilization of this device.

RECORDS REVIEWED:

Notification of IRO Assignment dated 03/16/06

MR-117 dated 03/16/06

DWC-60

DWC-69: Report of Medical Evaluation dated 02/09/05 and one with 08/01/05 expected date to reach MMI

DWC-73: Work Status Reports dated 03/08/04 through 05/23/05, one with referral date of 07/25/05, two with no year indicated but dates of 02/26, 07/28

MCMC: IRO Medical Dispute Resolution Retrospective Medical Necessity dated 03/29/06

MCMC: IRO Acknowledgment and Invoice Notification Letter dated 03/17/06

Lawrence Green, M.D.: Independent Medical Evaluation dated 01/26/06

Stephen Hanks: S.O.A.P. notes dated 01/16/06, 10/17/05, 09/20/05, 09/14/05, 08/22/05

Northwest Medical Center: Correspondence Request Detail (page 2) dated 01/09/06

Tucson Orthopaedic: Physical Therapy Order signed 12/01/05

Northwest Medical Center: D/C Allergies/Administrative Data/Orders dated 11/30/05

Northwest Medical Center: Patient information sheets dated 11/29/05, 11/28/05

Integrative Pain Center of Arizona: Procedure Report dated 11/28/05 from Bennet Davis, M.D.

Northwest Medical Center: Pain Procedures dated 11/28/05

Northwest Medical Center: Ambulatory Care Pain Clinic Flow Sheets dated 11/28/05

Integrative Pain Center of Arizona: Discharge Instructions dated 11/28/05

Northwest Medical Center: Patient History dated 11/28/05

Physicians Choice LLC: Request for Reconsideration dated 10/31/05 from Tammy Orr, CCS-P

Radiology Ltd.: CT-guided disk space biopsy lumbar spine dated 10/10/05, MRI lumbar spine dated 09/09/05

Gulf Coast Brain & Spine Institute: Handwritten letter dated 05/10/05 from Peter Yeh, M.D.

Memorial Hermann Hospital: Operative Report dated 04/29/05 from Peter Yeh, M.D.

Hermann Hospital: Lumbar spine radiograph dated 04/29/05

Pre-Anesthesia Evaluation dated 04/29/05

Anesthesia Record OR dated 04/29/05

Allendale Bone & Joint Clinic: Statements of Medical Necessity from Dr. Barbara Nedry dated 04/28/05, 03/31/05, 12/23/04

Gulf Coast Brain & Spine Institute: Letters dated 04/26/05, 04/05/05 from Peter Yeh, M.D.

Allendale Bone Joint Clinic: Owestry Pain Questionnaires dated 03/29/05, 01/27/05

AccuMed: Explanation of Benefits dated 03/23/05 through 07/11/05

DWC: Benefit Dispute Agreement dated 04/01/05

Allendale Bone Joint Clinic: Range of Motion testing dated 03/15/05, 01/20/05

Allendale Bone & Joint Clinic: Letter of Causation dated 03/07/05 from Dr. Barbara Nedry

Hugh W. Ratcliff, M.D.: Report dated 02/25/05

Vista Medical Center Hospital: Diagnoses/Procedures Validation dated 02/19/05, 01/25/05

Vista Medical Center Hospital: Discharge Summary dated 02/17/05, 01/13/05 from Vidal Omar, M.D.

Vista Medical Center Hospital: History and Physicals (handwritten) dated 02/17/05, 01/13/05 (first page only)

Vista Medical Center Hospital: Anesthesia Records dated 02/17/05, 01/13/05 (very difficult to read)

Vista Medical Center Hospital: Operative Reports dated 02/17/05, 01/13/05 from Vidal Omar, M.D.

Intracorp: Letters dated 02/15/06, 12/21/05 from Intracorp Medical Department

Roger Moczygemba, M.D.: Designated Doctor Evaluation dated 02/01/05

Optimum Medical Testing: Electrodiagnostic Evaluation dated 01/25/05

Peter J. Yeh, M.D.: Report dated 01/19/05 (pages 2 through 8, page 1 not available)

Dr. Barbara Nedry: Activities of Daily Living dated 01/13/05, 12/04/04

Intracorp: Letters dated 12/09/05, 02/11/05 from Katie O'Connor, Medical Review Specialist

Intracorp: Letter dated 12/28/04 from Mirella Garcia, Medical Review Specialist

Pain Management Consultants: Follow-Up Office Visit note dated 12/06/04 from Omar Vidal, M.D.

Allendale Bone & Joint Clinic: Subsequent Reports and Recommendations dated 06/28/04, 05/19/04, 04/28/04 from Dr. Barbara Nedry

Physical Exam notes (handwritten) dated 04/28/04 through 05/23/05 (Visual Evaluation at top, three pages per report)

North Houston Imaging Center: Lumbar spine radiograph dated 04/19/04

Pain Management Consultants: Initial Visit Comprehensive Evaluation dated 03/22/04 from Omar Vidal, M.D.

Dr. Barbara Nedry: Orthopedic/Neurological Examination notes (handwritten) dated 03/22/04 through 06/28/05

Pain Management Consultants: Consultation Referral Form dated 03/22/04

Allendale Bone & Joint Clinic: Doctor's notes (handwritten) dated 03/15/04 through 06/13/05 (Chief Complaint first section)

Dr. Barbara Nedry: Physical Medicine typed notes dated 03/08/04 through 06/15/05

Daily Notes (handwritten) dated 03/08/04 through 06/15/05

Allendale Bone & Joint Clinic: Letter dated 02/26/04 from Dr. Barbara Nedry

Intracorp: Undated Pre-Authorization Request (handwritten)

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

___4th___ day of _____APRIL_____ 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____

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