



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

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier

Requestors Name and Address: North Texas Pain Recovery Center 6702 West Poly Webb Road Arlington, Texas 76016	MDR Tracking No.: M5-06-1154-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: TASB Risk Mgmt Fund, Box 47	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 (Table of Disputed Services) states, "Medically necessary."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC 60 response. Position summary states, "Charges denied on a peer review as not medically necessary for all dates of service in this dispute."

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)
10-17-05 – 10-28-05	CPT code 97545-WH-CA (1 unit @ \$128.00 X 10 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$1,280.00
10-17-05 – 10-28-05	CPT code 97546-WH-CA (1 unit @ \$64.00 X 60 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$3,840.00
10-31-05 – 11-11-05	CPT code 97545-WH-CA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0
10-31-05 – 11-11-05	CPT code 97546-WH-CA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0
11-4-05	E0730-NU	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0
	Total		\$5,120.00

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 majority of the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is \$5,120.00.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 134.202(c)(1), 134.202 (e)(5)(C).

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 a refund of the paid IRO fee. The Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute in the amount of \$5,120.00. 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, Medical Dispute Officer	6-6-06
_____	Margaret Ojeda, Manager, Medical Necessity Team	6-6-06
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.

MATUTECH, INC.

**PO Box 310069
New Braunfels, TX 78131
Phone: 800-929-9078
Fax: 800-570-9544**

AMENDED (May 30, 2006)

April 27, 2006

Dee Torres
Texas Department of Insurance
Division of Workers' Compensation
Fax: (512) 804-4001

Re: Medical Dispute Resolution
MRD#: M5-06-1154-01
DWC#: _____
Injured Employee: _____
DOI: _____
IRO Certificate No. IRO5317

Dear Ms. Torres:

Matutech, Inc. has performed an Independent review of the medical records of the above-named case to determine medical necessity. In performing this review, Matutech reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

Matutech certifies that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him the provider, 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 Independent Review Organization.

Information and medical records pertinent to this medical dispute were obtained from CareNow and North Texas Pain and Recovery Center. The Independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in physical medicine and rehabilitation and is currently on the DWC Approved Doctor list.

Sincerely,

John Kasperbauer
Matutech, Inc.

REVIEWER'S REPORT

Information provided for review:

Request for Independent Review

Information provided by CareNow:

Clinic notes (02/01/05 - 03/21/06)
Diagnostic reports (04/29/05)
Therapy and FCE notes (02/10/05 to 09/02/05)
Report of medical evaluation (12/02/05)

Information provided by North Texas Pain and Recovery Center:

Clinic notes (08/31/05 to 03/24/06)
Therapy and FCE notes (08/31/05 to 11/14/05)
Peer review (12/27/05)

Clinical History:

The patient is a 60-year-old female who experienced neck and back pain after lifting a heavy object at her work place.

2005: The patient was evaluated at CareNow for neck and back pain. X-rays of the cervical and lumbar spine were unremarkable. Naprosyn, Ultracet and Skelaxin were prescribed. From February through June, the patient attended 46 sessions of physical therapy (PT). Magnetic resonance imaging (MRI) of the lumbar spine revealed a small amount of fatty endplate changes anteriorly with mild spondylosis at L1-L2; minimal spondylosis and mild facet disease at L2-L3; a minimal disc bulge with mild facet disease at L3-L4; and a disc bulge and a right posterolateral annular tear at L4-L5 with mild right neuroforaminal narrowing and mild facet disease. An MRI of the cervical spine revealed a central and slightly left paracentral protrusion with spondylosis flattening the thecal sac at C5-C6; and spondylosis from C2 through T1.

Eric Wieser, M.D., noted the therapy was not of much help. X-rays of the cervical and lumbar spine demonstrated generalized spondylosis. Dr. Wieser assessed muscular strain and felt there was no indication for operative intervention. David Graybill, D.O., a pain management physician, assessed chronic pain syndrome and failure of conservative treatment. He recommended an interdisciplinary chronic pain program and prescribed Celebrex. Kenneth Walker, Ph.D., performed a behavioral health assessment. He diagnosed adjustment disorder with depression and anxiety. He felt that the patient was an appropriate candidate for active interdisciplinary treatment. In a functional capacity evaluation (FCE), the patient functioned at the light work level versus medium PDL that her job required. The evaluator recommended an occupational rehabilitation program. From September 12, 2005, through October 11, 2005, the patient attended four weeks of a chronic pain management program (CPMP). On October 14, 2005, an FCE was carried out. The patient qualified for closest to the light-to-medium work level. A work hardening program (WHP) was recommended. From October 17, 2005, through

November 11, 2005, the patient attended 20 sessions of the WHP. On November 3, 2005, in a behavioral health assessment, Michael Walker, Ed.D., a psychologist, stated the patient was an appropriate candidate for a multidisciplinary WHP. The diagnosis was adjustment disorder. On November 15, 2005, in a final FCE, the patient functioned closest to the light-to-medium work level and hence it was recommended that she return to work at the light/medium level.

Martin Jose, M.D., assessed clinical maximum medical improvement (MMI) as of December 2, 2005, and assigned 0% whole person impairment (WPI) rating. In a peer review, J. Fuller, D.C., rendered the following opinions: (1) The patient sustained a sprain/strain type injury as a result of the work event. (2) The documentation did not support the billing for the WHP for multiple reasons, including invalid efforts during the FCEs, and the patient had already participated in approximately seven months of rehabilitation. (3) The patient should be independent with home pain control measures and home exercises.

2006: On March 21, 2006, Dana Noble, M.S.P.T., stated that maximum effort testing was clearly performed in both FCEs. On March 24, 2006, Mr. Walker responded to the carrier's denial for the work hardening services. He concluded as follows: (1) There was nothing in the TDI-DWC rules preventing a patient from obtaining work hardening services after completing a pain management program. (2) The facts clearly showed that the patient was not functioning at a return-to-work level when she was admitted into the WHP. (3) The facts also showed that she was functioning at a return-to-work level when she was discharged from the WHP. (4) Her doctor also placed her at MMI after completion of the program. (5) The patient's behavioral health assessment clearly showed that she had depression, anxiety and fear of re-injury issues which necessitated a multidisciplinary approach.

Disputed Services:

Work Hardening Program and DME E0730 for dates of services 10/17/05 – 11/11/05.

Explanation of Findings:

Although I question the medical necessity for work hardening after forty plus sessions of therapy and completion of a chronic pain management program this individual does meet the criteria for admission into a work hardening program including off work greater than three months and an injury to a major weight bearing area. However, the second FCE revealed minimal improvement and she remained between light and medium duty physical demand level, which should indicate discontinuation.

Conclusion/Decision To Uphold, Overturn or Partially Uphold/Overturn denial:

The decision is to partly overturn the decision and allow the **first ten sessions of work hardening and deny the following ten sessions** between 10/17/05 and 11/11/05. Beyond which should not have been necessary secondary to minimal or no improvement. **The TENS is denied.**

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

Training in Physical Medicine and Rehabilitation and the studies and recommendations of the Department of Labor. **According to evidenced based studies, TENS are not recommended. No proven efficacy in the treatment of low back symptoms.** ([Milne-Cochrane, 2001](#)) ([Sherry, 2001](#)) ([Philadelphia Panel, 2001](#)) ([Glaser, 2001](#)) ([Maher, 2004](#))

The physician providing this review is a physician, doctor of medicine. The reviewer is national board certified in physical medicine and rehabilitation. The reviewer is a member of American Academy of Physical Medicine and Rehabilitation. The reviewer has been in active practice for twenty-three years.

Matutech is forwarding this decision by mail and in the case of time sensitive matters by facsimile to the Texas Department of Insurance, Division of Workers Compensation.

Matutech retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by Matutech clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the Utilization Review Accreditation Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by Matutech represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to Matutech for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Matutech assumes no liability for the opinions of its contracted physicians and/or clinician advisors the health plan, organization or other party authorizing this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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.