



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	
Requestors Name and Address: Horizon Health c/o Bose Consulting P O BOX 550496 Houston, Texas 77255	MDR Tracking No.: M5-06-1227-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Liberty Mutual Insurance Company Rep Box # 28	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: "The above indicates that the treatment provided for the claimant was medically reasonable and necessary. We are requesting reimbursement for all disputed dates of services".

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60

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)
09-13-05 to 10-13-05	99212 (\$49.41 X 11 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$543.51
	97110 (6 units @ \$215.16 X 11 DOS)		\$2,366.76
	97112 (\$37.77 X 11 DOS)		\$415.47
	97140 (\$33.94 X 6)		\$203.64
	97140 (\$33.93 X 5)		\$169.65
10-14-05 to 11-04-05	99212, 97110, 97112 and 97140	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
TOTAL			\$3,699.03

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 **prevailed** on the **majority** of the disputed medical necessity issues.

The carrier submitted information regarding payment for dates of service 08-29-05 through 09-02-05 with check number 11559613, therefore, these dates of service listed on the table of disputed services will not be a part of the review.

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 \$3,699.03. In addition, the Division finds that the requestor was the prevailing party and is entitled to a refund of the IRO fee \$460.00. 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.

Ordered by:

05-31-06

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

Claimant Name: _____
Texas IRO # : _____
MDR #: M5-06-1227-01
Social Security #: _____
Treating Provider: Carrie Schwartz, DC
Review: Chart
State: TX
Date Completed: 5/24/06
Date Amended: 5/25/06

Review Data:

- Notification of IRO Assignment dated 4/11/06, 1 page.
- Receipt of Request dated 4/11/06, 1 page.
- Medical Dispute Resolution Request/Response dated 3/9/06, 1 page.
- List of Treating Providers (date unspecified), 1 page.
- Table of Disputed Services dated 11/4/05, 11/3/05, 11/1/05, 10/28/05, 10/27/05, 10/24/05, 10/21/05, 10/19/05, 10/17/05, 10/14/05, 10/13/05, 10/7/05, 10/6/05, 10/3/05, 9/21/05, 9/20/05, 9/19/05, 9/16/05, 9/15/05, 9/13/05, 9/2/05, 8/31/05, 8/29/05, 7 pages.
- Billings Statements dated 11/4/05, 11/3/05, 11/1/05, 10/28/05, 10/27/05, 10/24/05, 10/21/05, 10/19/05, 10/17/05, 10/14/05, 10/13/05, 10/7/05, 10/6/05, 10/3/05, 9/21/05, 9/20/05, 9/19/05, 9/16/05, 9/15/05, 9/13/05, 9/2/05, 8/31/05, 8/29/05, 7 pages.
- Initial Patient Consultation dated 2/3/06, 3 pages.
- Follow-up Visit dated 1/17/06, 1/7/06, 11/21/05, 10/1/05, 8/13/05, 7/25/05, 9 pages.
- Work Hardening Program (date unspecified), 1 page.
- Weekly Activity Schedule (date unspecified), 2 pages.
- Report of Medical Evaluation dated 12/22/05, 12/20/05, 7/12/05, 6/14/05, 10 pages.
- Review of Medical History and Physical Examination dated 12/20/05, 11/3/05, 7/12/05, 12 pages.
- Impairment Rating/FCE Billing Form dated 12/20/05, 1 page.
- Individual Session dated 11/30/05, 1 page.
- SOAP Note dated 11/11/05, 11/9/05, 11/7/05, 11/4/05, 11/3/05, 11/1/05, 10/28/05, 10/27/05, 10/24/05, 10/21/05, 10/19/05, 10/17/05, 10/14/05, 10/13/05, 10/10/05, 10/7/05, 10/6/05, 10/3/05, 9/30/05, 9/28/05, 9/27/05, 9/21/05, 9/20/05, 9/19/05, 9/16/05, 9/15/05, 9/13/05, 9/9/05, 9/7/05, 9/6/05, 9/2/05, 8/31/05, 8/29/05, 8/25/05, 8/23/05, 8/22/05, 8/19/05, 8/17/05, 8/15/05, 8/12/05, 5/27/05, 5/25/05, 5/24/05, 5/18/05, 5/17/05, 5/16/05, 5/13/05, 5/12/05, 5/10/05, 5/6/05, 5/4/05, 5/2/05, 4/29/05, 4/27/05, 4/25/05, 4/22/05, 4/20/05, 4/18/05, 4/13/05, 4/12/05, 4/11/05, 4/6/05, 4/5/05, 4/4/05, 3/31/05, 3/29/05, 3/28/05, 23 pages.
- Notice to the Doctor dated 10/13/05, 2 pages.
- DWC 49 Form (date unspecified), 1 page.
- Nerve Conduction Study and Electromyography Report dated 6/16/05, 1 page.
- Physician Plan of Care dated 8/3/05, 2 pages.
- Examination dated 9/19/05, 1 page.
- Letter of Clarification dated 9/9/05, 2 pages.
- Functional Abilities Evaluation dated 6/21/05, 9 pages.
- Questionnaire dated 6/24/05, 5 pages.
- Operative Report dated 8/2/05, 2 pages.
- Thoracic Spine and Right Shoulder X-ray dated 4/18/05, 1 page.
- Right Shoulder MRI dated 5/19/05, 1 page.
- Thoracic Spine MRI dated 5/19/05, 1 page.

- Lumbar Spine MRI dated 5/19/05, 2 pages.
- Initial Examination dated 3/29/05, 2 pages.
- Pain Management Consultation dated 4/18/05, 2 pages.
- Subsequent Report dated 5/24/05, 1 page.
- Office Visit dated 8/11/05, 6/20/05, 6/4/05, 12 pages.
- Injury Treatment Report dated 3/17/05, 1 page.
- Physical Activity Status Report dated 3/17/05, 1 page.
- Letter of Medical Necessity dated 4/12/05, 1 page.

Reason for Assignment by TDI: Determine the appropriateness of the previously denied request for therapeutic exercises (97110), office visits (99212), neuromuscular re-education (97112) and manual therapy technique (97140), for dates of service, 9/13/05 through 11/4/05.

Determination: PARTIAL –

REVERSED – the previous denial of therapeutic exercises (97110), office visits (99212), neuromuscular re-education (97112) and manual therapy technique (97140) for dates of service 9/13/05 through 10/13/05.

UPHELD - the previous denial of therapeutic exercises (97110), office visits (99212), neuromuscular re-education (97112) and manual therapy technique (97140) for dates of service of 10/14/05 through 11/4/05.

Rationale:

Patient's age:

Gender: Male

Date of Injury: ____

Mechanism of Injury: Slipped and fell from a height of approximately 11 feet onto his right side.

Diagnoses: Status post right shoulder surgery, 8/2/05.

Subsequent to the above injury, this 39-year-old claimant initially presented to Brazos Valley Medical Clinic on 3/17/05. The claimant was diagnosed with chest and arm and contusion. X-rays were performed and medication was prescribed. The claimant returned to work on modified duty, but was unable to work within the restrictions provided. On 3/29/05, the claimant transferred care to Dr. Schwartz, D.C. The claimant was diagnosed with right shoulder and thoracic/lumbar spine sprain/strain, in addition to rib cage contusion. A recommendation for active and passive physical therapy was submitted. Radiographic evaluation revealed a fracture of the right fourth rib with a 4 mm separation of the fractured fragment. The claimant received a total of twenty-seven treatments from 3/28/05 through 5/27/05. An MRI of the right shoulder, dated 5/19/05, revealed tendinosis of the distal supraspinatus and infraspinatus tendons. A thoracic spine MRI revealed a hemangioma in the dorsal aspect of the T-8 vertebral body. The remainder of the thoracic spine was unremarkable. A lumbar spine MRI revealed a 2 to 3 mm paracentral disc bulge with minimal tear at L4-5 on the right side. There was osteophytic ridging causing considerable narrowing of the internal recess at L5-S1 on the right side. At L3-4, there was a 2 mm central disc bulge with partial desiccation of the disc material. The claimant was referred to Dr. Reuben, an orthopedist, on 6/4/05 for a consultation. The claimant was diagnosed with discogenic lumbar spine, right shoulder impingement syndrome, and L4-5 disc bulge. The recommendation was for a lumbar epidural steroid injection and continued physical therapy. There was also a recommendation for right shoulder arthroscopy, but the claimant opted to continue with physical therapy. On 6/16/05 an electromyogram (EMG) / nerve conduction velocity (NCV) of the lower extremities revealed evidence of a left L3-4, L4-5 and L5-S1 radiculopathy.

On 6/20/05, the claimant underwent a Required Medical Evaluation with Dr. Robert Francis, D.C. Dr. Francis diagnosed the claimant with right shoulder impingement syndrome, lumbosacral sprain/strain, resolved and right rib contusion (resolved). Dr. Francis opined that the claimant's lumbar spine and right rib complaints had resolved. There was a recommendation for more aggressive treatment to the right shoulder to possibly include manipulation under anesthesia followed by an aggressive active supervised manipulation under anesthesia (MUA) rehabilitation program. Dr. Francis referred the claimant for a functional capacity evaluation, which was performed on 6/21/05. Because of providing a submaximal effort, the physical demand capacity was indeterminate. Dr. Francis indicated that "based on the current testing the examinee should be considered at least capable of a PDC of light, which does not meet his self reported PDC of heavy as a laborer for Basic Energy." On 7/12/05, the claimant was sent for a Designated Doctor Examination with Dr. Heisey. The claimant was given a 0 percent impairment rating and was determined to be at maximum medical improvement (MMI). This was based on the evaluator's opinion that "the claimant was disingenuous in his efforts when doing strength testing on all extremities in the right side. There is no objective evidence to match his subjective complaint." On 8/2/05, the claimant underwent right shoulder manipulation under general anesthesia, right shoulder arthroscopy, labral debridement, subacromial decompression, partial clavicle excision and insertion of a pain pump catheter under the direction of Dr. Reuben.

The claimant returned to Dr. Reuben on 8/12/05 for a follow-up evaluation. The recommendation was for the claimant to begin the course of physical therapy. On 8/12/05, the claimant began a course of active exercise rehabilitation at Horizon Health under the direction of Dr. Schwartz. Through 11/11/05, the claimant had received a total of thirty-seven post surgical treatments. A letter of clarification from Dr. Heisey, dated 9/9/05, noted that, at the time of the initial evaluation, "there was no objective evidence at that time to indicate any trauma. The claimant had also been offered an arthroscopic examination by Dr. Reuben with a subacromial decompression for what he felt might be in impingement syndrome and the claimant refused and elected to go with a physical therapy." As a result, Dr. Heisey "felt that he (claimant) had achieved MMI status." Dr. Heisey further opined, "In the interim, the claimant had elected to undergo arthroscopic surgery on 8/2/05 with Dr. Reuben." It was also noted, "In light of the fact that the claimant has elected to undergo surgery and has had arthroscopic surgery, I think that the MMI date should therefore be rescinded." "I therefore would like to reevaluate the claimant in early November 2005. At that time, he should be approximately three months post surgery and hopefully he will be at MMI." On 12/20/05, the claimant was re-evaluated by Dr. Heisey, who opined that the claimant had reached maximum medical improvement (MMI), effective 12/20/05, with a 0 percent impairment to the left shoulder. There was an overall 0 percent whole person impairment. On 10/1/05, the claimant was re-evaluated by Dr. Reuben. The recommendation was for continued physical therapy. On 11/21/05, the claimant was re-evaluated by Dr. Reuben. Again, the recommendation was for continued physical therapy. On 11/3/05, the claimant underwent an independent evaluation with Dr. Juergens, D.C. Dr. Juergens opined that the claimant was at maximum medical improvement (MMI) with no need for further treatment. On 11/16/05, the claimant underwent a psychodiagnostic examination with Dr. Khan, M.D. This resulted in a recommendation for a multi-disciplinary work hardening program. On 11/28/05, the claimant began a work hardening program. According to the submitted documentation, the claimant received at least five weeks of work hardening. On 1/7/06, the claimant returned to Dr. Reuben for a re-evaluation. The recommendation was to continue the work hardening program. On 1/17/06, the claimant was again re-evaluated by Dr. Reuben with a recommendation for continued work hardening. On 2/3/06, the claimant underwent a consultation with Dr. Pervez, M.D. for a pain management consultation. At the time of the evaluation, the claimant complained of lower back pain at 8/10 on the visual analogue scale (VAS), with pain radiating to the right lower extremity and associate symptoms to include numbness, tingling, and weakness all the way down to the toes. The recommendation was for an epidural steroid injection.

The purpose of this review is to determine the medical necessity for disputed treatments for dates of service 9/13/05 through 11/4/05 that included therapeutic exercises (97110), office visits (99212), neuromuscular re-education (97112) and manual therapy technique (97140). From 8/12/05 through 9/9/05, the claimant received a total of thirteen treatments. The total number of disputed treatments was twenty for dates of service 9/13/05 through 11/4/05. The Official Disability Guidelines indicate that up to twenty-four treatments over fourteen weeks may be considered appropriate. The number of treatments rendered for this claimant's diagnoses exceed the Official Disability Guidelines' recommendations. Treatments consisting of therapeutic exercises (97110), office visits (99212), neuromuscular re-education (97112) and manual therapy techniques (97140) for dates of service 9/13/05 through 10/13/05 can be considered medically necessary and appropriate.

By 10/13/05, the claimant's pain levels had plateaued at 3/10 on the visual analogue scale (VAS). The submitted SOAP notes documented both subjective and of objective improvement through 10/13/05. At that time, the claimant had received twenty-four post surgical treatments, consistent with the Official Disability Guidelines. The remaining treatments revealed continued pain levels at 3/10, clearly indicating that, by 10/13/05, the claimant had achieved maximum therapeutic benefit. Therefore, treatment beyond this date would not be medically necessary.

Of curious note with this claimant was that, on 10/1/05, the claimant was evaluated by Dr. Reuben, at which time the claimant complained of pain levels of 6/10 on the visual analogue scale (VAS). This was in stark contrast to the pain levels noted on the SOAP notes from Horizon Health. On 10/3/05, the claimant complained of pain levels of 3/10 to 4/10. This would also call into question the claimant's credibility. This would also appear to confirm the concerns from both doctors Heisey and Juergens, who opined that the claimant did not give maximal effort. A further concern was the fact that the claimant had been evaluated by multiple providers who opined that the claimant's lumbar spine had resolved. Nearly one year post injury, and well over six months past any indication of low back complaints, the claimant presented to Dr. Pervez complaining of low back pain at a level of 8/10 on the visual analogue scale (VAS). This would equate to severe, nearly debilitating pain, with no evidence of any interim aggravations or exacerbations to support these findings.

Criteria/Guidelines utilized: TDI/DWC Rules and Regulations. ACOEM Guidelines, 2nd Edition, Chapters 6, 8, 9 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.