



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.: M5-06-1312-01
Patrick R. E. Davis, D. C. 115 W. Wheatland Rd. Ste. 101 Duncanville, Texas 75116	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
Watkins Associated Industries, Box 28	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC-60 package. Position Summary states, "Documentation supports medical necessity."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC-60 response. Position Summary states, "Not medically necessary per peer review."

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)
8-29-05 – 12-12-05	CPT codes 99215, 97110, 98940, 97140, 97112, 97116, 97530, HCPCS code E1399	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0

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:

Donna Auby, Medical Dispute Officer

5-25-06

Authorized Signature

Typed Name

Date of Findings and Decision

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.

TX DEPT OF INS DIV OF WC
AUSTIN, TX 78744-1609

CLAIMANT: ____

EMPLOYEE: ____

POLICY: M5-06-1312-01

CLIENT TRACKING NUMBER: M5-06-1312-01/5278

Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIoA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing 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 decision before referral to the IRO.

Records Received:

Records from the State:

- Notification of IRO assignment dated 4/18/06 7 pages
- Table of Disputed services for DOS 8/29/05-12/12/05 10 pages
- EOBS dated 8/29/05-9/23/05 4 pages

Records from Respondent:

- Retrospective review dated 10/24/05 3 pages
- Reconsideration review dated 2/01/06 3 pages
- Letter to the patient from Texas department of Insurance dated 03/03/06 1 page
- Letter from Dr. Davis dated 06/30/05 4 pages
- Office notes dated 06/30/05 4 pages
- Office note dated 07/01/05 2 pages
- Letter of medical necessity undated 1 page
- Office note dated 07/05/05 2 pages
- Office note dated 07/06/05 2 pages
- Letter of medical necessity dated 7/7/05 1 page
- Office note dated 7/7/05 2 pages
- Letter from the patient resigning employment dated 7/8/05 1 page
- Office note dated 7/8/05 2 pages
- Office note dated 07/11/05 2 pages
- Office note dated 7/12/05 2 pages
- Office note dated 7/13/05 2 pages
- Office note dated 7/14/05 2 pages
- Office note dated 7/15/05 2 pages
- Office note dated 7/15/05 2 pages
- Office note dated 7/19/05 2 pages
- Office note dated 7/21/05 2 pages
- Office note dated 7/25/05 2 pages
- Office note dated 7/27/05 2 pages
- Office note dated 7/29/05 3 pages
- Office note dated 8/1/05 2 pages
- Letter of medical necessity undated 1 page
- Office note dated 8/3/05 2 pages
- Office note dated 8/5/05 2 pages
- Office note dated 8/8/05 2 pages
- Office note dated 8/10/05 2 pages

- Office note dated 8/12/05 2 pages
- Office note dated 8/15/05 2 pages
- Office note dated 8/17/05 2 pages
- Office note dated 8/19/05 2 pages
- Office note dated 8/23/05 2 pages
- Office note dated 8/25/05 2 pages
- Office note dated 8/26/05 3pages
- Letter of medical necessity undated 1 page
- MRI findings dated 8/22/05 2 pages
- Office note dated 8/29/05 2 pages
- Office note dated 8/30/05 2 pages
- Office note dated 8/31/05 3 pages
- Office note dated 9/6/05 2 pages
- Letter of medical necessity undated 1 page
- Office note dated 9/7/05 2 pages
- Office note dated 9/9/05 2 pages
- Texas Workers comp work status report dated 9/9/05 1 page
- Office note dated 9/12/05 2 pages
- Office note dated 9/14/05 2 pages
- EMG/NCS report dated 9/15/05 3 pages
- Office note dated 9/16/05 2 pages
- Initial consult report dated 9/19/05 3 pages
- Office note dated 9/19/05 2 pages
- Office note dated 9/21/05 2 pages
- Office note dated 9/23/05 2 pages
- Office note dated 9/28/05 2 pages
- Office note dated 9/30/05 3 pages
- Letter of medical necessity undated 1 page
- Follow up report dated 11/11/05 1 page
- Notice of refusal to pay benefits dated 11/17/05 1 page
- Email dated 10/12/05
- Progress report dated 11/18/05 2 pages
- Procedure note dated 12/5/05 2 pages
- History and physical dated 12/12/05 5 pages
- Letter from UR nurse dated 12/22/05
- Letter confirming appointment dated 12/15/05 1 page
- Lumbar ESI therapy note dated 12/27/05 3 pages
- Medical history and physical exam dated 12/28/05 5 pages
- Lumbar ESI therapy note dated 12/28/05 2 pages
- Lumbar ESI therapy note dated 12/30/05 2 pages
- Lumbar ESI therapy note dated 01/03/06 2 pages
- Lumbar ESI therapy note dated 1/4/06 2 pages
- Lumbar ESI therapy note dated 1/6/06 2 pages
- Lumbar ESI therapy note dated 1/9/06 2 pages
- Lumbar ESI therapy note dated 1/11/06 2 pages
- Letter from Dr. Whitehead dated 1/12/06 12 pages
- Functional Abilities Evaluation dated 1/12/06 13 pages
- Lumbar ESI therapy note dated 1/13/06 2 pages
- Lumbar ESI therapy note dated 1/16/06 2 pages
- Lumbar ESI therapy note dated 1/18/06 3 pages
- Letter of medical necessity undated 1 page
- Lumbar ESI therapy note dated 1/20/06 3 pages
- Lumbar ESI therapy note dated 1/24/06 2 pages
- Lumbar ESI therapy note dated 1/25/06 3 pages
- WC compensability Investigation report dated 1/26/06 4 pages
- Lumbar ESI therapy note dated 1/27/06 3 pages
- Refusal to pay benefits dated 2/2/06 1 page
- Request for designated doctor dated 3/16/06 3 pages
- Follow up report dated 2/3/06 1 page
- Texas Workers Comp Status report dated 6/30/05 1 page
- Texas Workers Comp Status Report dated 8/3/05 1 page
- Texas Workers Comp Status Report dated 8/18/05 1 page
- Texas Workers Comp Status Report dated 9/9/05 1 page

- Texas Workers Comp Status Report dated 9/19/05 1 page
- Texas Workers Comp Status Report dated 10/25/05 2 pages
- Texas Workers Comp Status Report dated 11/25/05 1 page
- Texas Workers Comp Status Report dated 12/19/05 1 page
- Texas Workers Comp Status Report dated 01/12/06 1 page
- Texas Workers Comp Status Report dated 1/17/06 1 page
- Texas Workers Comp Status Report dated 2/15/06 1 page
- Texas Workers Comp Status Report dated 3/9/06 1 page
- Fax cover sheets dated 6/30/05, 07/01/05, 08/22/05 4 pages

Records from the Requestor:

- Letter from Dr. Davis dated 6/30/05 5 pages
- Letter from Dr. Davis dated 7/29/05 5 pages
- Letter from Dr. Davis dated 9/30/05 6 pages
- Therapeutic procedure notes dated 7/1/05-9/30/05 37 pages

Summary of Treatment/Case History:

The patient is a 22-year-old male warehouse laborer who, on ____, was moving freight when he made a wrong turn of his body and subsequently began experiencing sharp, shooting lower back pain that radiated into both hips, right greater than left. He reported the incident to his supervisor and was sent to the company doctor where he was examined, x-rayed and prescribed medications.

When his response was less than desired, he presented himself to a doctor of chiropractic on 6/30/05 who performed an examination, and then began a regimen of chiropractic care, physical therapy and rehabilitation. Eventually, epidural steroid injections were performed.

Questions for Review:

Services Disputed: Office Visits (#99215), Therapeutic exercises (#97110), chiropractic manipulative therapy (#98940), Manual therapy technique (#97140), Neuromuscular re-education (#97112), gait training (#97116), Therapeutic activities (#97530) and DME (#E1399). Medical necessity.

Dates of Service 8/29/05 thru 12/12/05

Explanation of Findings:

Services Disputed: Office Visits (#99215), Therapeutic exercises (#97110), chiropractic manipulative therapy (#98940), Manual therapy technique (#97140), Neuromuscular re-education (#97112), gait training (#97116), Therapeutic activities (#97530) and DME (#E1399). Medical necessity.

There is no medical necessity for the above disputed services.

Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include: (A) As time progresses, there should be an increase in the active regimen of care, a decrease in the passive regimen of care and a decline in the frequency of care. (B) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (C) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. (D) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment. Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment.

In this case, there was no documentation of objective or functional improvement in this patient's condition, nor was there any evidence of a change of treatment plan to justify additional treatment in the absence of positive response to prior treatment. Furthermore, the records were devoid of any documentation supporting the continued need for supervised, one-on-one therapeutic exercises, when current medical literal states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises."

Section 413.011, Labor Code, provides that the TWCC must use the reimbursement policies and guidelines promulgated by the Medicare system. The "Physical Medicine and Rehabilitation for Orthopedic and Musculoskeletal Diseases and/or Injuries" Reimbursement Policies applicable to the Texas Medicare system provide as follows: "It is expected that patients undergoing rehabilitative therapy for musculoskeletal injuries in the absence of neurological compromise will transition to self-directed physical therapy within two months...Only the more refractory cases requiring additional therapy are expected to continue beyond this point and additional documentation of necessity and medical certification by the supervising physician is required." In this case, the dates in dispute begin at the 2-month mark, and therefore, exceed the recommended active care established by the Medicare Reimbursement Policies. Since no documentation was submitted establishing either (a) objective proof of neurological compromise, or (b) that this was a refractory case, the medical necessity of the treatment cannot be supported.

And finally, the treating doctor of chiropractic's daily notes utilized vague and non-specific language when describing the patient. The Center for Medicare and Medicaid Services (CMS) has stated, "Documentation should detail the specific elements of the chiropractic service for this particular patient on this day of service. It should be clear from the documentation why the service was necessary that day. Services supported by repetitive entries lacking encounter specific information will be denied." In this case, there was insufficient documentation to support the medical necessity for the treatment in question since the daily progress notes lacked this specificity.

References Used in Support of Decision:

Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has given numerous presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty years.

MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the DWC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

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

The written opinions provided by MRIOA 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 MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America 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 agrees to hold MRIOA harmless for any and all claims which may arise as a result of 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.

1224217.1

Case Analyst: Raquel G ext 518