



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	
Requestor's Name and Address:	MDR Tracking No.: M5-06-1476-01
Valley Spine Medical Center 5327 South McColl Rd. Edinburg, Texas 78539	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
TX Mutual Insurance Company, Box 54	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, "This patient has been diagnosed with more than one pathology; therefore more than three units are needed to address the patient's condition."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC 60 response. Position summary states, "Texas Mutual requests that the request for dispute resolution filed be conducted under the provisions of the APA set out above."

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)
7-6-05 – 7-15-05	CPT code 97035 (\$14.63 X 6 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$87.78
7-6-05 – 7-15-05	CPT code G0283 (\$13.61 X 3 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$40.83
7-6-05 – 7-15-05	CPT code 97140 (\$31.79 X 10 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$317.90
7-6-05 – 7-15-05	CPT code 97012 (\$17.76 X 3 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$53.28
4-25-05 – 7-15-05	CPT code 97110, 99212	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0
4-25-05 – 5-26-05	CPT code 97035, 97140, 97012, G0283	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0
	Total		\$499.79

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 \$499.79.

Based on review of the disputed issues within the request, the Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by Medical Dispute Resolution.

On 5-3-05 the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

CPT code 97140 on 4-25-05, 4-27-05, 4-29-05, 5-2-05, 5-6-05, 5-9-05, 5-11-05, 5-13-05, 5-16-05, 5-18-05, 5-20-05, 5-23-05, 5-25-05, and 5-26-05 was denied by the carrier as "434 - the value of the procedure is included in the value of the mutual exclusive procedure." CPT code 97140 is considered by Medicare to be a mutually exclusive procedure of CPT code 97012 which was billed on this date of service. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be considered justifiable if a modifier is used appropriately. No modifier was used with these dates of service. The services represented by the code combination will not be paid separately.

CPT code 99080-73 on 5-23-05 was denied by the carrier as "248 -TWCC 73 not properly completed or submitted in excess of the filling requirements." Per Rule 129.5, the requestor submitted a copy of the report. Recommend reimbursement of \$15.00.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 129.5, 133.308 and 134.202(c)(1).

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 \$514.79. 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

5-24-06

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.

May 18, 2006

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

CLAIMANT: ____

EMPLOYEE: ____

POLICY: M5-06-1476-01

CLIENT TRACKING NUMBER: M5-06-1476-01

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:

FROM THE STATE:

Notification of IRO assignment 5/3/06 1 page
Texas Department of Insurance Division of Workers Compensation sheet 1 page
Medical dispute resolution request/response 1 page
Provider form 1 page
Medical dispute resolution request/response 1 page
Letter from Texas Mutual 4/27/06 1 page
Table of disputed services 5 pages
Explanation of Benefits from Texas Mutual 16 pages

FROM THE REQUESTOR/Valley Spine Medical Center:

Medical dispute resolution request/response 1 page
Retrospective review information sheet 5/5/06 1 page
Provider form 1 page
Table of disputed services 5 pages
Letter from Janie Chavez/Valley Spine Medical Center 4/3/06 3 pages
MRI cervical spine report 9/23/05 1 page
MRI lumbar spine report 4/29/05 1 page
Nerve conduction studies report 8/8/05 3 pages
Progress notes (SOAP) 4/27/05 1 page
Progress notes (SOAP) 4/29/05 1 page
History and physical 4/29/05 4 pages
Progress notes (SOAP) 5/2/05 1 page
Specific and subsequent medical report 5/4/05 3 pages
Progress notes (SOAP) 5/6/05 1 page
Progress notes (SOAP) 5/9/05 1 page
Progress notes (SOAP) 5/11/05 1 page
Progress notes (SOAP) 5/13/05 1 page
Progress notes (SOAP) 5/16/05 1 page
Progress notes (SOAP) 5/18/05 1 page
Progress notes (SOAP) 5/20/05 1 page
Progress notes (SOAP) 5/23/05 1 page
Progress notes (SOAP) 5/25/05 1 page
Progress notes (SOAP) 5/26/05 1 page

Progress notes (SOAP) 7/06/05 1 page
Progress notes (SOAP) 7/07/05 1 page
Progress notes (SOAP) 7/08/05 1 page
Progress notes (SOAP) 7/11/05 1 page
Progress notes (SOAP) 7/13/05 1 page
Progress notes (SOAP) 7/15/05 1 page
Explanation of Benefits from Texas Mutual 32 pages
HCFA billings 4/25/05-4/27/05 1 page
HCFA billings 4/27/05-4/29/05 1 page
HCFA billings 4/25/05-4/27/05 1 page
HCFA billings 4/27/05-4/29/05 1 page
HCFA billings 5/2/05-5/4/05 1 page
HCFA billings 5/6/05 1 page
HCFA billings 5/2/05-5/4/05 1 page
HCFA billings 5/6/05 1 page
HCFA billings 5/9/05-5/11/05 1 page
HCFA billings 5/13/05 1 page
HCFA billings 5/9/05-5/11/05 1 page
HCFA billings 5/13/05 1 page
HCFA billings 5/16/05-5/20/05 1 page
HCFA billings 5/20/05 1 page
HCFA billings 5/16/05-5/20/05 1 page
HCFA billings 5/20/05 1 page
HCFA billings 7/6/05-7/8/05 1 page
HCFA billings 7/8/05 1 page
HCFA billings 7/7/05-7/8/05 1 page
HCFA billings 7/8/05 1 page
HCFA billings 5/23/05-5/25/05 1 page
HCFA billings 5/26/05 1 page
HCFA billings 5/23/05-5/25/05 1 page
HCFA billings 5/26/05 1 page
HCFA billings 7/11/05-7/13/05 1 page
HCFA billings 7/13/05-7/15/05 1 page
HCFA billings 7/11/05-7/13/05 1 page
HCFA billings 7/13/05-7/15/05 1 page
Request for reconsideration 6/9/05 2 pages
Request for reconsideration 6/17/05 2 pages
Request for reconsideration 7/14/05 2 pages
Request for reconsideration 8/30/05 2 pages

Summary of Treatment/Case History:

The patient is a 49-year-old male who, on ____, was driving on an expressway access road when a pickup truck came off the expressway and hit his vehicle on the driver's side, injuring his low back, his neck and both his shoulders. He initially received physical therapy from another facility (no records available), but then changed to a treating doctor of chiropractic in early April for continued physical therapy, chiropractic care and physical rehabilitation.

A lumbar MRI performed on 4/29/05 revealed broad disc bulges at multiple levels with a 2-3 mm protrusion/herniation, and electro-diagnostic testing performed on 8/8/05 suggested bilateral L5-S1 nerve root irritation, more on the left than the right. A cervical MRI performed on 9/23/05 revealed disc protrusions at 3 levels from C4-7 with thecal sac compression at each level. EMG/NCV testing performed on 8/8/05 suggested bilateral L5-S1 nerve root irritation, more on the left than the right, with normal SSEP and DSEP testing.

The 5/26/05 daily note discussed referral to a neurosurgeon for ESI injections, and then the next daily note submitted was for date of service 7/6/05, with a notation stating "post-ESI rehabilitation," but no records from either the operative procedure or the performing neurosurgeon were available for review.

Questions for Review:

Dates of service 4/25/05 through 7/15/05:

1. Disputed services: Therapeutic exercises (#97110), ultrasound (#97035), office visits (#99212), manual therapy technique (#97140), mechanical traction (#97012) and electrical stimulation (#G0283). Do not review services on table noted to be FEE issues.

Explanation of Findings:

In this case, the medical records adequately documented that a new treatment protocol was attempted in late June or early July in the form of epidural steroid injections, so according to the *Guidelines for*

Chiropractic Quality Assurance and Practice Parameters, a 4-week trial of post-injection physical therapy and rehabilitation was supported as medically necessary, rendering the visits from 7/6/05 through 7/15/05 approved. However, since the patient had been actively participating in an extensive therapeutic exercise protocol up until that point, and because the records were devoid of any extenuating circumstances or complicating conditions that necessitated continuing to render these services on a supervised, one-on-one basis, therapeutic exercises (#97110) by that point in time were unsupported as medically necessary. This is also supported in the literature, that states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises."

In addition, in terms of the established patient office visits, level II (#99212) performed on 7/7/05 and 7/11/05, nothing in either the diagnosis or the medical records supported the medical necessity of performing this level of Evaluation and Management (E/M) service on a "routine," daily basis, and particularly not during an already-established treatment plan.

Conclusion/Partial Decision to Certify:

1. Disputed services: Therapeutic exercises (#97110), ultrasound (#97035), office visits (#99212), manual therapy technique (#97140), mechanical traction (#97012) and electrical stimulation (#G0283). Do not review services on table noted to be FEE issues.

The ultrasound (#97035), the unattended electrical stimulation (#G0283), the manual therapy techniques (#97140), and the mechanical traction (#97012) for dates of service 7/6/05 through 7/15/05 only, are approved.

Conclusion/Decision to Not Certify:

All other services during this latter date range, as well as all services from 4/25/05 through 5/26/05, are not warranted.

References Used in Support of Decision:

Haldeman, S; Chapman-Smith, D; Petersen, D *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Aspen Publishers, Inc.

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.

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