



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: BHCA, PC 2450 Fondren Suite 312 Houston, Texas 77063	MDR Tracking No.: M5-06-1570-01 (current MDR#) M5-06-1552-01 (prior MDR#) M4-04-5925-01 (prior MDR#)
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Downs & Stanford Rep Box # 17	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: DWC-60 dispute
POSITION SUMMARY: "The service we provided is for pain management. Medical necessity was provided in the evaluation and by the treating physician".

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60
POSITION SUMMARY: "Because the services have been denied pursuant to medical necessity, the Carrier requests that this dispute be re-docketed as a retrospective medical necessity dispute and sent to an IRO for determination".

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
02-11-03	90801 (120 units X \$3.00 per unit)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$360.00
TOTAL			\$360.00

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

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 and 2002 Medical Fee Guideline

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 additional reimbursement in the amount of \$360.00. In addition, the Division finds that the requestor was the prevailing party and is entitled to a refund of the IRO fee (\$650.00). 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:

06-26-06

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 America Inc.

An Independent Review Organization

7626 Parkview Circle

Austin, TX 78731

Phone: 512-346-5040

Fax: 512-692-2924

June 9, 2006

TDI-DWC Medical Dispute Resolution

Fax: (512) 804-4868

Patient:

TDI-DWC #:

MDR Tracking #:

IRO #:

M5-06-1570-01

5251

IRO America Inc. (IRO America) has been certified by the Texas Department of Insurance as an Independent Review Organization. The TDI, Division of Workers' Compensation (DWC) has assigned this case to IRO America for independent review in accordance with DWC Rule 133.308 which allows for medical dispute resolution by an IRO.

IRO America 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.

The independent review was performed by a matched peer with the treating doctor; the Reviewer is a credentialed Panel Member of IRO America's Medical Knowledge Panel who is a licensed Provider, board certified and specialized in Psychology. The reviewer is on the DWC Approved Doctor List (ADL).

The IRO America Panel Member/Reviewer is a health care professional who has signed a certification statement stating that no known conflicts of interest exist between the Reviewer 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 carriers health care providers who reviewed the case for decision before referral to IRO America for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

RECORDS REVIEWED

Notification of IRO Assignment, records from the Requestor, Respondent, and Treating Doctor(s), including:

- Appeal Letter, Steven S. Callahan, Ph.D., 05/01/2006
- Psychological Clinical Interview, Jennifer Hankins, Psy.D., 02/11/2003
- Chart Review, Theodore W. Parsons III, M.D., FACS, 08/27/02
- Medical Records Review, Benjamin Agana, M.D., 12/19/2003

CLINICAL HISTORY

This Patient is a middle aged (38 – 55 yrs) Caucasian male who was injured at work on . He was employed as truck driver for , and sustained cervical injuries when a pallet of 5-gallon buckets was knocked over and one or more buckets, or the pallet, hit him on the back of his neck. Between 1998 and 2000 (subsequent to this injury), he underwent cervical spine decompression and fusion, a repeat surgical procedure for a multilevel discectomy and fusion, and a right ulnar nerve transposition. In 2002, two physicians opined (per summary by Dr. Parsons, M.D.) that the patient demonstrated severe chronic pain behavior with evidence of a psychological disorder. The Patient has been unable to return to work since the injury on . The patient was in psychological therapy with Dr. George Nixon until January, 2002. The Patient was referred for a psychological evaluation by Craig Cernosek, D.C. to see if a interdisciplinary chronic pain management program was appropriate. That evaluation was done on 2/11/2003 and the clinician determined that the patient was not presently in need of further psychological treatment.

DISPUTED SERVICE(S)

Under dispute is the retrospective medical necessity of CPT code 90801 on 2/11/2003 (Psychological Clinical Interview and Report).

DETERMINATION/DECISION

The Reviewer disagrees with the determination of the insurance company.

RATIONALE/BASIS FOR THE DECISION

The Patient evidently presented to his chiropractor with continuing emotional distress related to his injury, the subsequent surgeries, and loss of employment. The D.C. appropriately referred The Patient for evaluation for a behavioral treatment. It has been accepted for over a decade that a number of well-defined behavioral interventions are highly effective in the treatment of chronic pain.^{1, 2, 3, 4} Furthermore, a meta-analysis of effective return-to-work treatment programs for patients with musculoskeletal complaints published last year (Meijer, Sluiter, & Frings-Dresen, 2005) strongly supports the medical necessity of behavioral health interventions. The fact that The Patient didn't need a behavioral health intervention is not a basis for denying payment for the initial evaluation. The null finding still provided information of a medical necessity for ongoing treatment toward resolution of this chronic condition and a return to work for The Patient.

Screening Criteria

1. Specific:

- ¹ Magni, G., Marchetti, M., Moreschi, C., Merskey, H., Luchini, S.R. (1993). Chronic musculoskeletal pain and depressive symptoms in the national health and nutrition examination. I. Epidemiologic follow-up study. *Pain*, 53: 163-8.
- ² Astin, J. A., Shapiro, S.L., Eisenberg, D.M., Forsys, K.L. (2003). Mind-body medicine; state of the science, implications for practice. *J Am Board Fam Pract*, 16, 131-147.
- ³ Rainville, P. (2002). Brain mechanisms of pain affect and pain modulation. *Curr Opin Neurol*, 12, 195-204

- ⁴ Morley, s., Eccleston, C., Williams, A. (1999). Systematic review and meta-analysis of randomized controlled trials of cognitive behavior therapy and behavior therapy for chronic pain in adults, excluding headache. *Pain*, 80, 1-13.
- Meijer, E.M., Sluiter, J.K., & Frings-Dresen, M.H.W. (2005). Evaluation of effective return-to-work treatments for sick-listed patients with non-specific musculoskeletal complaints: a systematic review.

2. General:

In making his determination, the Reviewer had reviewed medically acceptable screening criteria relevant to the case, which may include but is not limited to any of the following: Evidence Based Medicine Guidelines (Helsinki, Finland); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Texas Chiropractic Association: Texas Guidelines to Quality Assurance (Austin Texas); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Mercy Center Guidelines of Quality Assurance; any and all guidelines issued by DWC or other State of Texas Agencies; standards contained in Medicare Coverage Database; ACOEM Guidelines; peer-reviewed literate and scientific studies that meet nationally recognized standards; standard references compendia; and findings; studies conducted under the auspices of federal government agencies and research institutes; the findings of any national board recognized by the National Institutes of Health; peer reviewed abstracts submitted for presentation at major medical associates meetings; any other recognized authorities and systems of evaluation that are relevant.

CERTIFICATION BY OFFICER

IRO America has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. IRO America has made no determinations regarding benefits available under the injured employee's policy.

As an officer of IRO America Inc., I certify that there is no known conflict between the Reviewer, IRO America and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

IRO America is forwarding by facsimile, a copy of this finding to the DWC.

Sincerely,
IRO America Inc.



Dr. Roger Glenn Brown
President & Chief Resolutions Officer

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.

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

I hereby certify, in accordance with DWC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to DWC via facsimile, on this 9th day of June, 2006.

Name and Signature of IRO America Representative:

Sincerely,

IRO America Inc.

A handwritten signature in black ink, appearing to read "Roger Glenn Brown", written over a horizontal line.

Dr. Roger Glenn Brown

President & Chief Resolutions Officer