



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: Horizon Health/Basu Law Firm, PLLC P O BOX 550496 Houston, Texas 77255	MDR Tracking No.: M5-06-1597-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Travelers Indemnity Company Rep Box # 05	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Requestor's 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".

Principle Documentation:

1. DWC-60/Table of Disputed Services
2. CMS 1500's
3. Explanation of benefits

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Respondent's Position Summary: None submitted by Respondent

Principle Documentation: 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)
06-06-05 to 06-27-05	99212 (\$48.03 X 10 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$480.30
	97110 (6 units @ \$215.16 X 10 DOS)		\$2,151.60
	97112 (1 unit @ \$36.75 X 10 DOS)		\$367.50
	97140 (1 unit @ \$33.91 X 10 DOS)		\$339.10
06-28-05 to 08-25-05	99212, 97110, 97112, 97140	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
TOTAL			\$3,338.50

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.

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 \$3,338.50. In addition, the Division finds that the Requestor was not the prevailing party and is not entitled to a refund of the IRO fee. The Division hereby **ORDERS** the Respondent 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:

07-17-06

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.



IMED, INC.

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NOTICE OF INDEPENDENT REVIEW

NAME OF EMPLOYEE:
IRO TRACKING NUMBER: M5-06-1597-01
NAME OF REQUESTOR: Horizon Health
NAME OF CARRIER: St. Pauls / Travelers
DATE OF REPORT: 06/26/06
DATE OF AMENDED REPORT: 07/11/06
IRO CERTIFICATE NUMBER: 5320

TRANSMITTED VIA FAX:

IMED, Inc. has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO).

In accordance with the requirement for TDI to randomly assign cases to IROs, TDI has assigned your case to IMED, Inc. for an independent review. The peer reviewer selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the peer reviewer reviewed relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by a chiropractic physician reviewer who is Board Certified in the area of Chiropractic Medicine and is currently listed on the DWC approved doctor list.

I am the Secretary and General Counsel of IMED, Inc., and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and the provider, the injured employee, 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. I further certify that no conflicts of interest of any nature exist between any of the aforementioned parties and any director, officer, or employee of IMED, Inc.

REVIEWER REPORT

I have reviewed the records forwarded on the above injured worker and have answered the questions submitted.

Information Provided for Review:

- Table of disputed services.
- Explanation of Benefits.
- Physician statement Bose Consulting.
- 12/13/04 – Initial examination with Horizon Health.
- 12/20/04 – Initial patient consult with K. Bobby Pervez, M.D.
- 01/07/05 – An MRI report of the lumbar spine from Bob R. Maxcey, M.D.
- 01/17/05 – Subsequent report from Carrie Schwartz, D.C.
- 01/24/05 – Follow-up note from K. Bobby Pervez, M.D.
- 01/28/05 – Examination report from Jeffrey D. Reuben, M.D., Ph.D.
- 02/10/05 – Nerve conduction study and electromyography report, Kevin E. Cowens, Sr., M.D.
- 02/21/05 – Follow-up note, K. Bobby Pervez, M.D.

- 02/28/05 – Subsequent report, Carrie Schwartz, D.C.
- Five pages of what appears to be a Functional Capacity Evaluation; however, this report was not dated and appears to be incomplete.
- The final page of a report also incomplete and also undated from Carrie Schwartz, D.C.
- 03/03/05 – Operative report from K. Bobby Pervez, M.D.
- 03/21/05 – Follow-up note from K. Bobby Pervez, M.D.
- 04/07/05 – Operative report from K. Bobby Pervez, M.D.
- 04/18/05 – Follow-up note, K. Bobby Pervez, M.D.
- 05/20/05 – Follow-up note, K. Bobby Pervez, M.D.
- 05/26/05 – Operative report, K. Bobby Pervez, M.D.
- 06/06/05 – SOAP notes from Horizon Health.
- 06/13/05 – SOAP notes from Horizon Health.
- 06/20/05 – SOAP notes from Horizon Health.
- 06/21/05 – Evaluation note from Peter J. Yeh, M.D.
- 06/27/05 – Follow-up note, K. Bobby Pervez, M.D.
- 07/25/05 – Follow-up note, K. Bobby Pervez, M.D.
- 07/26/05 – Orthopedic consult, Kenneth G. Berliner, M.D.
- 08/03/05, 08/10/05, 08/15/05, & 08/22/05 – Daily SOAP notes from Horizon Health.
- 09/19/05 – Follow-up note, K. Bobby Pervez, M.D.

Clinical History Summarized:

The employee was injured at work on ___ while helping move a china cabinet up stairs. He slipped on a furniture pad, fell backwards, and hit his back and right elbow on a rail.

The employee had an MRI of the lumbar spine which revealed a 1 mm posterior bulge at L3-L4, a 2 mm bulge at L4-L5, and a 1 mm disc bulge at L5-S1.

An EMG of the lower lumbar extremity demonstrated an L5-S1 radiculopathy on the right.

The employee has undergone three epidural steroid injections of the lumbar spine, as well as active and passive physical therapy modalities following and prior to the epidural steroid injections.

The employee has been recommended for surgical decompression but has denied this procedure at this point. Also noted was that the employee is 5 feet eight inches and 298 pounds, and he has been informed through the documentation in this file that he does need to lose weight, as this could be the aggravating factor in his ongoing low back pain.

Disputed Services:

Items in dispute: 99212 office visit - 97110 therapeutic exercise - 97112 neuromuscular reeducation - 97140 manual therapy technique, denied for medical necessity. Dates of service: 06/06/05 through 08/25/05.

Decision – Two Parts:

Part 1: On the basis of the documentation provided, it would appear that all of the services in question would be medically necessary and appropriate from 06/06/05 through 06/27/05.

Part 2: None of the disputed services in question would be medically necessary from 06/28/05 – 08/25/05.

Rationale/Basis for Decision:

I agree with the statement in the Bose Consulting report, which states “spinal injections have a longer duration effect when combined with structural rehabilitation”. The Bose Consulting report references the Texas Labor Code, SOAH, a Texas Supreme Court case and Reasonable and Necessary standards. This would be the rationale for the medical necessity of disputed services from 06/06/05 through 06/27/05.

On 06/27/05, K. Bobby Pervez, M.D., stated, "Unfortunately, the patient has not had significant radicular relief after completing the epidural injections. I would recommend that he continue with the orthopedic consult to evaluate his options." On 07/25/05, a follow-up note again from K. Bobby Pervez, M.D., reported, "The patient refers increased pain at the level of the lower back with increased numbness in his legs as well as increased sweating due to pain which is a great concern." The report goes on to say, "He continues to participate actively in the physical therapy program in the hopes that he will lose some weight which would help him with his low back problem." It appears from the documentation in Dr. Pervez's report that the employee has actually had an increase in pain level but only continues in the physical therapy program in question in hopes of losing weight. It should be noted that the employee's obesity is not related to the work injury in question, and therefore, the continuation of the physical therapy program directed at weight loss would not appear to be medically necessary as it relates to the work injury in question.

Further rationale for the basis of this decision is a report dated 06/21/05 from Peter J. Yeh, M.D., which in regard to the employee states, "He has significant low back pain that has persisted despite conservative therapies."

There is question throughout the documentation suggesting that the medical necessity of treatment beyond 06/27/05 would be appropriate due to the employee's report of subjective pain on a scale from 0 to 10. It should be noted that I did evaluate this, but these reports appear to be inconsistent with the reports from Peter J. Yeh, M.D., and K. Bobby Pervez, M.D. It should also be noted that in the documentation provided beyond 06/27/05 in which the employee indicates symptoms on a scale from 0 to 10, there was no reported change in subjective complaints. The Texas Labor Code, as referenced in the Bose Consulting reports, would also apply to the denial of services from 06/28/05 – 08/25/05.

The rationale for the opinion stated in this report is based on the record review, as well as the above referenced material, and broadly accepted literature to include numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician with IMED, Inc. is deemed to be a DWC decision and order.

YOUR RIGHT TO REQUEST A HEARING

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, 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 thirty (30) days after the date on which the decision that is the subject of the appeal is final and appealable.

I hereby verify that a copy of this Independent Review Organization's decision was sent to the DWC via facsimile or U.S. Postal Service this 28th day of June, 2006 from the office of IMED, Inc.

Sincerely,



Charles Brawner
Secretary/General Counsel