



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: San Antonio Accident /Injury Care 401 W. Commerce # 100 San Antonio, Texas 78207	MDR Tracking No.: M5-06-1603-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Rep Box # 29	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Requestor's Position Summary: The Requestor did not submit a position summary.

Principle Documentation:

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

Explanation of Benefits

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Respondent's Position Summary: "The Carrier maintains that the treatment rendered September 29, 2005 through November 21, 2005 and made the basis of this dispute, was neither reasonable or necessary to cure and relieve as required by the Texas Labor Code".

Principle Documentation: Response to DWC-60 including copy of peer review.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
09-29-05 to 11-21-05	99204 (1 DOS) (see note below)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$161.22
	97113 (6 units @ \$228.30 X 1 DOS)		\$228.30
	97113 (5 units @ \$190.25 X 2 DOS)		\$380.05
	97113 (8 units @ \$304.40 X 1 DOS)		\$304.40
	97124 (1 unit @ \$26.27 X 18 DOS)		\$472.86
	(see note below)		\$83.12
	97150 (4 units @ \$83.12 X 1 DOS)		\$748.08
	97150 (6 units @ \$124.68 X 6 DOS)		\$1,454.60
	97150 (7 units @ \$145.46 X 10 DOS)		
	TOTAL		\$3,832.63
	Note: Requestor billed less than the MAR, therefore, reimbursement is recommended at the amount billed.		

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 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 \$3,832.63. 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 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:

07-18-06

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: M5-06-1603-01
NAME OF REQUESTOR: San Antonio Accident & Injury Care
NAME OF RESPONDENT:
DATE OF REPORT: 06/14/06
DATE OF AMENDED REPORT: 06/28/06
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 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:

- Documentation in regard to listed services from 09/29/05 to 01/29/05 provided in regard to CPT codes and reductions and contains office visits, therapeutic procedures all of which are involved in dispute, 3 pages.
- 09/29/05 - Workers' compensation initial evaluation report from San Antonio Accident & Injury Care signed by Richard Alexander, D.C., 4 pages.
- 10/05/05 - Initial consultation note from Southwest Pain & Injury by Rolando Rodriguez, M.D., 4 pages.
- 10/11/05 – Documentation from Tri Star Risk Management demonstrating notice of disputed issues and refusal to pay benefits.
- 10/13/05 & 10/18/05 – Preliminary report dated 10/13/05 in regard to imaging of the lumbar spine interpreted by James Remkus, M.D., 1 page.
- 10/18/05 - Documentation from Acadiana Impairment & Functional Assessment Center, apparently a report of Functional Capacity Evaluation signed by Marcus Hayes, D.C., 11 pages.
- 10/24/05 - Medical record review from Roger Canard, D.C. This documentation spans approximately 6 pages.
- 11/10/05 - Record review from Review Med by Mark Parker, M.D., 2 pages.
- 11/21/05 – Documentation from Review Med by Albert Tesoriero, M.D., 2 pages.
- Dean G. Pappas & Associates, 2 pages.
- HCFA forms, 9 pages.
- 11/23/05 - A follow-up note from Southwest Pain & Injury by Rolando Rodriguez, M.D., 3 pages. There was also one page of a notification of IRO assignment and demonstrated the items in dispute and dates of services in dispute from the Department of Insurance, 1 page, and an IRO referral form from IMED, Inc., 1 page.
- 11/28/05 - Designated doctor report from Fortunato Abello, M.D., 2 pages.
- 05/26/06 - Documentation from IMED, Inc. in regard to a fax cover sheet from San Antonio Accident & Injury Care detailed an IRO assignment with TDI-DWC, by Richard Alexander, D.C., 1 page.
- 05/30/06 - Documentation in regard to a letter for IRO from San Antonio Accident & Injury Care by Richard Alexander, D.C., 2 pages.
- Daily treatment logs from San Antonio Accident & Injury Care, 14 logs in total.

Clinical History Summarized:

The injured employee slipped and fell at work on ___ sustaining an injury to his right leg, neck, and back.

The employee was initially seen at Alamo City Medical Group and was given various diagnostics. Treatment initiated early in care around 09/14/05.

A medical record review was performed on 11/10/05 by Mark Parker, M.D. It was stated that based upon Dr. Parker's review of the available medical records, he concurred with Roger Canard, D.C., and agreed with the results of the medical records reviewed. It was his opinion that the employee sustained a soft tissue sprain/strain injury to the cervical and lumbar spine and right knee on top of extensive preexisting degenerative spine and joint disease. Dr. Parker quoted the *Official Disability Guidelines*, stating that for the type of injury the employee should receive physical therapy for a total of nine visits over eight weeks plus an active self-directed home physical therapy program.

On 11/21/05, a medical record review revealed on MRI scan, mild degenerative disc disease at L3-L4, no stenosis or neural impingement. L3-L4 showed early degenerative disc disease, no disc bulging, herniations, stenosis, or neural impingement, with mild facet arthrosis bilaterally. L5-S1 had no stenosis or neural impingement. No lesions were demonstrated on this examination that could be attributed to a recent injury. All findings were chronic in nature and developed over time. This was an interpretation of the actual MRI given by Albert Tesoriero, M.D.

Documentation from Dean Pappas & Associates revealed the employee was evaluated by Roger Canard, D.C., on 10/24/05. The injury was a strain injury and was related to the diagnosis. He stated that six sessions of physical therapy with the treating M.D. in this case would be appropriate from Alamo City Medical Group. Dr. Canard stated the employee sustained a soft tissue injury to the cervical spine, lumbar spine, and right knee. Preexisting degenerative joint disease was noted in the right knee by MRI report, and cervical osteoarthritis and lumbar degenerative joint disease were also noted preexisting. He felt the prognosis was excellent and said there was no evidence of acute trauma. Dr. Canard felt that the injuries had resolved as a soft tissue injury sprain and the employee was returned to modified duty by the treating M.D. His opinion was that six sessions of physical therapy with the treating M.D. would be appropriate. He felt that no future medications would be necessary. Home exercises may be appropriate and over-the-counter drugs for pain control would be beneficial. Dr. Canard felt the employee was not a surgical candidate. There was a letter of statement from San Antonio Accident & Injury Care for services denied from 09/29/05 through 11/21/05. The diagnosis of services was lumbosacral intervertebral disc syndrome with radiculitis, 836.0 which is medial meniscus tear right knee and 847.0 cervical spine sprain/strain. Dr. Alexander stated that from 09/29/05 through 11/21/05, he was only able to address the employee's low back injury due to a dispute that was going on with the insurance carrier. Treatment for the low

Case No.: M5-06-1603-01

Page Four

back consisted of four sessions of aquatic therapy. The above therapy was directed to his low back while his neck and right knee were in dispute.

After 11/21/05, the employee was not responding well to therapy, and he was directed to Dr. Duncan for lumbar epidural steroid injections. A Designated Doctor Evaluation was scheduled for 11/28/05 to determine the areas of injury and recommendations.

The Designated Doctor Evaluation was performed by Dr. Abello and indicated the employee was not at Maximum Medical Improvement (MMI). He also recommended the employee have an MRI of both the cervical and right knee.

MRIs of the cervical and right knee were performed. The right knee MRI report stated the employee had free edge tear of the posterior horn of the medial meniscus and the employee was referred to Dr. Bustamante for a surgical consultation on 03/16/06 and had right knee surgery. He was released to begin therapy on his right knee on 03/28/06.

The injured employee did not have any preoperative therapy on his right knee, but eventually did have surgery. The employee also had two separate lumbar spine epidural steroid injections by Dr. Duncan on 02/06/06 and 02/27/06 which were authorized by the carrier.

When reviewing Dr. Abello's designated doctor report, his assessment was that the employee denied any neck, low back, or right knee pain prior to the injury at work but continued to have significant pain in the low back, neck, and right knee up to the present time. Workup revealed significant osteoarthritis of the cervical spine and right knee and minimal arthritis in the lumbar spine. Significant osteoarthritis prior to the injury would cause his symptoms to vary from a simple muscle sprain/strain in the back to a greater than normal sprain/strain, and thus, would require longer than normal recovery time. Further workups like the MRI of the cervical spine and right knee, plus referral to an orthopedic surgeon for more definitive treatment to the right knee were indicated. Therefore, the employee had not reached MMI. It was found that the employee should reach MMI in three months, likely around 02/28/06.

The initial report from San Antonio Accident & Injury Care was done early on 09/29/05. The diagnosis codes have already been alluded to.

There was also documentation from Dr. Rodriguez on 10/05/05 which stated the employee had cervical facet syndrome, discogenic pain in the cervical spine, facet syndrome in the lumbar spine, and possible discogenic pain in the lumbar spine as well. It was recommended that an MRI of the cervical and lumbar spine be performed.

Case No.: M5-06-1603-01

Page Five

The FCE on 10/18/05 showed the employee was performing in the sedentary to light physical demand level, but his employment required a physical demand level of medium.

The actual MRI report from Premier Medical Imaging stated that L3-L4 there was flattening of the thecal sac without foraminal encroachment. At L4-L5, there was flattening of the thecal sac with facet joint arthrosis and mild bilateral foraminal narrowing. At L5-S1, there was bilateral facet joint arthrosis at L5 without foraminal encroachment or nerve root impingement.

When reviewing the daily therapy treatment notes log from San Antonio Accident & Injury Care, the lumbar spine had pain which was approximately 7/10 and in the neck approximately 5/10. The pain throughout care did not vary much and was minimal. It states his pain did not increase after exercise and stated he actually showed improvement. The employee complained of knee pain, and there were positive orthopedic tests.

Disputed Services:

99204-office visits, 97113-aquatic therapy, 97124-massage, 97150-therapeutic procedures, all denied for medical necessity. Dates of service 09/29/05 through 11/21/05.

Decision:

Approval of office visits (99204), aquatic therapy (97113), massage (97124) and therapeutic procedures (97150) for the dates 9/29/05 through 11/21/05.

Rationale/Basis for Decision:

The employee sustained injuries to multiple areas including the cervical spine, neck, and lower extremities. The employee does have some underlying degenerative conditions in various areas, which essentially are viewed as a complicating factor to recovery. The employee has multiple areas of injury which are going to prolong recovery, as well as underlying degenerative conditions which certainly will complicate and prolong recovery for a soft tissue injury. The *Texas Labor Code* indicates that if treatment gives an injured employee a curative or symptom relieving effect or if therapy helps with gainful employment, then care is considered medically necessary. The employee noted improvement, which supports the care extended during this timeframe.

Later in therapy, the employee was not placed at MMI by a designated doctor. The employee also had to eventually see a surgeon for complications of the right knee, and epidural steroid injections were recommended at Advanced Imaging & Diagnostics for ongoing issues of his back. There were also complications in therapy because the employee was initially denied

treatment, which also prolonged recovery. The employee received twenty-one therapy visits, which is certainly not excessive, considering the underlying complicating factors, multiple areas of injury, and significance of injury. The employee did show limited improvement during this time period, however, the employee was referred to other practitioners for evaluations for other types of therapy and change in direction of overall treatment.

As a result, it clearly seems that the employee did not receive excessive medical treatment, especially when considering the underlying complicating factors and documentation in regard to this particular case.

The rationale for the opinion stated in this report is based on the record review, as well as the *Texas Labor Code*, *Official Disability Guidelines*, 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 21st day of June, 2006 from the office of IMED, Inc.

Sincerely,

Charles Brawner
Secretary/General Counsel