



**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**

<b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestors Name and Address:  JCMLR P.O. Box 1660 San Antonio, TX 78228	MDR Tracking No.: M5-06-1628-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:  Liberty Insurance Corporation, Box 28	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

**PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY**

Position summary states, "...Your company and your adjuster have blatantly disregarded the professional opinion of the peer reviewer and the documentation of the ongoing improvement in the injured worker's status. We are concerned about your company's policy regarding the evaluation and denial of claims...."

Principle Documentation:

1. DWC-60/Table of Disputed Service
2. CMS-1500's
3. EOB's

**PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY**

Position summary states, "Unnecessary Medical Treatment and Services Bundled."

Principle Documentation:

1. DWC-60/Table of Disputed Service
2. 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)
10-6-05 – 11-14-05	97012, 97150, 97110, 97140, A4550, 98940, 99212, 20552, J2001, J0702, A4208, A4200, 97035	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00

**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 Requestor submitted a revised Table of Disputed Services on 6-21-06. This Table will be used for this review. Date of service 10-21-05 and CPT codes 97012 and 97110 on 11-2-05 were withdrawn by the Requestor.

The Division has reviewed the enclosed IRO decision and determined that the Requestor did not prevail on the disputed medical necessity issues. The IRO did specify that "one session of trigger point injections (20552) on October 21, 2005 was medically necessary." However, this service had been withdrawn by the Requestor in the revised Table submitted on 6-21-06. No additional payment for this service will be recommended.

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 5-25-06 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.

Regarding CPT code 99080-73 on 11-2-05: The carrier denied this service as "50- unnecessary medical treatment based on a peer review;" however, the DWC-73 is a required report per Rule 129.5 and cannot be denied for medical necessity when no office visit is billed on the same date of service. Medical Dispute Resolution has jurisdiction in this matter. Recommend reimbursement of \$15.00 according to 133.106(f)(1).

***PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION***

28 Texas Administrative Code Sec. 129.5, 133.308, 133.306, 134.1 and 134.202(c)(1)  
Texas Labor Code 413.031

***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 \$15.00. 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.

**Findings and Decision and Order by:**

_____	_____	_____
Authorized Signature	Medical Dispute Officer	8-10-06
	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.**

# **MATUTECH, INC.**

**PO Box 310069  
New Braunfels, TX 78131  
Phone: 800-929-9078  
Fax: 800-570-9544**

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Amended July 19, 2006  
Amended June 29, 2006  
June 16, 2006

Dee Torres  
Texas Department of Insurance  
Division of Workers' Compensation  
Fax: (512) 804-4001

Re: Medical Dispute Resolution  
MDR#: M5-06-1628-01  
DWC#: \_\_\_\_\_  
Injured Employee: \_\_\_\_\_  
DOI: \_\_\_\_\_  
IRO Certificate No.: IRO5317

Dear Ms. Torres:

Matutech, Inc. has performed an Independent review of the medical records of the above-named case to determine medical necessity. In performing this review, Matutech reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

Matutech certifies that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him the provider, 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 Independent Review Organization.

Information and medical records pertinent to this medical dispute were obtained from Alamo Healthcare Systems. The Independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in physical medicine and rehabilitation and is currently on the DWC Approved Doctor list.

Sincerely,

John Kasperbauer  
Matutech, Inc.

## REVIEWER'S REPORT

### Information provided for review:

Request for Independent Review

Information provided by Alamo Healthcare Systems:

Office notes (08/24/2005 – 03/16/2006)  
Radiodiagnostic note (09/30/2005)  
Electrodiagnostic study (11/03/2005)  
Procedure note (02/22/2006)  
Therapy notes (08/23/2005 – 03/16/2006)

### Clinical History:

This is a 31-year-old female who injured her lower back while attempting to dislodge a large box that was stuck at the exit. On August 22, 2005, Spiro Ioannidis, D.C., examined the patient. The patient had been on ibuprofen, Biofreeze, and home exercises. The lumbar spine was tender with spasms, right more than left. Range of motion (ROM) of the lumbar spine was painful. X-rays of the lumbar spine revealed mildly decreased disc height at L5-S1. Dr. Ioannidis diagnosed lumbar sprain/strain. From August 23, 2005, through November 14, 2005, the patient attended 26 sessions of chiropractic care consisting of hot packs application, electrical stimulation, ultrasound, therapeutic exercises, myofascial release, mechanical traction, and manipulation at Alamo Healthcare System. The patient was being treated with Flexeril and Ibuprofen. The patient underwent functional capacity evaluation (FCE) on three occasions, in which she functioned at a light-to-medium physical demand level (PDL) whereas her job required the medium PDL. Dr. Ioannidis recommended additional two-three weeks of therapy and work conditioning. A home stimulator unit was prescribed. Magnetic resonance imaging (MRI) of the lumbar spine revealed sagittal hypertrophy at L4-L5 on the right. The patient was, subsequently, diagnosed with sacroiliac (SI) joint sprain/strain and had trigger point injections (TPIs) on three occasions. An electromyography/nerve conduction velocity (EMG/NCV) study of the lower extremities was unremarkable. Soma was prescribed and an injection of Toradol was given.

In a required medical evaluation (RME), William Culver, M.D., rendered the following opinions: (1) The patient could return to light-to-medium duty with restrictions. (2) The patient had an excellent prognosis. (3) Chiropractic therapy had exceeded, and TPIs every two weeks were not reasonable. The TPIs and epidural steroid injections (ESIs) would not alter the patient's condition. Muscle relaxants and antiinflammatory medications for a limited timeframe would be recommended in conjunction with a work conditioning program (WCP). No additional chiropractic therapy would be reasonable following this. (4) The patient's condition was directly related to the original injury, which was a lumbar sprain/strain. There was no evidence for a pre-existing condition. (5) The patient had no permanent disability and would be able to achieve complete healing. In January 2006, Dr. Ioannidis noted tenderness in the lumbar facets. He suggested therapy and a pain management evaluation.

In February 2006, Dmitriy Buyanov, M.D., a pain consultant, noted trigger points over bilateral paravertebrals. ROM was limited due to pain. Patrick Faber's, iliac compression, and Kemp's tests were positive bilaterally. Flexeril and ibuprofen helped control the pain to a certain extent. Dr. Buyanov diagnosed lumbar facet syndrome, most prominent at L4-L5 and L5-S1 levels. He performed bilateral median branch blocks at L4, L5, and S1. For March 8, 2006, through March 14, 2006, the patient attended three sessions of PT with aforementioned modalities.

On March 10, 2006, Clydell Adams, D.C., noted the following in the patient: Intermittent pain in the right hip, numbness in the back, urinary incontinence, sexual dysfunction, mild tenderness at the SI joint on the right with axial compression, mild tenderness over the right iliac crest, bilaterally positive straight leg raising (SLR) test, and limited ROM of the lumbar spine. Dr. Adams assessed clinical maximum medical improvement (MMI) as of March 10, 2006, and assigned 5% whole person impairment (WPI) rating. The patient's medium PDL met her job PDL. In March, the patient had received an ESI and had a decrease in her lower back pain. A second ESI had been scheduled for March 22, 2006. The patient was taking Soma. Dr. Ioannidis provided the patient with a home muscle stimulator unit and advised PT following the second ESI. He recommended a follow-up in three to four weeks after the ESI.

### **Disputed Services:**

Mechanical traction (97012), therapeutic procedures (97150), therapeutic exercises (97110), manual therapy technique (97140), surgical trays (A4550), chiropractic manipulative treatment (98940), office visits (99212), injection trigger point (20552), injection lidocaine (J2001), injection betamethasone (J0702), syringe with needle (A4208), gauze pads (A4200) and ultrasound (97035).

Dates of service: 10/06/2005 – 11/14/2005

### **Explanation of Findings:**

Evidence reveals on review of the available documentation, that Ms. \_\_\_ has undergone extensive period of time of 26 sessions of chiropractic care consisting of manipulation and also passive modalities along with exercise instruction. During that treatment process it appears that her level of function had not improved regarding the functional capacity evaluation times three. She remained at a light to medium physical demand level during those three functional capacity evaluations. It appeared, based upon the FCE, that the ongoing use of chiropractic care was not functionally beneficial.

Reportedly Ms. \_\_\_ underwent trigger point injections q two weeks without noted functional gains. Recently she has been placed at a medium functional demand level which met her job requirements.

### **Conclusion/Decision To Uphold, Overturn or Partially Uphold/Overturn denial:**

The reviewer partially upholds the determination of the insurance carrier and is of the opinion that a trial of one session of trigger point injections (20552) on October 21, 2005, was medically necessary for the injury on \_\_\_; however, follow up trigger point injections were not medically necessary for the injury.

**Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:**

CHIROPRACTIC MANIPULATION, BACK CHAPTER - **ODG Chiropractic Guidelines:**

Manipulation	Recommended as an option. Medical evidence shows good outcomes from the use of manipulation in acute low back pain without radiculopathy (but also not necessarily any better than outcomes from other recommended treatments). If manipulation has not resulted in functional improvement in the first one or two weeks, it should be stopped and the patient reevaluated. For patients with chronic low back pain, manipulation may be safe and outcomes may be good, but the studies are not quite as convincing.
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Therapeutic care --

Mild: up to 6 visits over 2 weeks

Severe: Trial of 6 visits over 2 weeks

Severe: With evidence of objective functional improvement, total of up to 18 visits over 6-8 weeks, avoid chronicity

Elective care -- As needed (but not covered)

PER ODG –OFFICIAL DISABILITY GUIDELINES:

Physical therapy (PT)	<p>Recommended as an option. There is strong evidence that physical methods, including exercise and return to normal activities, have the best long-term outcome in employees with low back pain. See also <u>Exercise</u>. Direction from physical and occupational therapists can play a role in this, with the evidence supporting active therapy and not extensive use of passive modalities. The most effective strategy may be delivering individually designed exercise programs in a supervised format (for example, home exercises with regular therapist follow-up), encouraging adherence to achieve high dosage, and stretching and muscle-strengthening exercises seem to be the most effective types of exercises for treating chronic low back pain. (<u>Hayden, 2005</u>) Studies also suggest benefit from early use of aggressive physical therapy (“sports medicine model”), training in exercises for home use, and a functional restoration program, including intensive physical training, occupational therapy, and psychological support. (<u>Zigenfus, 2000</u>) (<u>Linz, 2002</u>) (<u>Cherkin-NEJM, 1998</u>) (<u>Rainville, 2002</u>) Successful outcomes depend on a functional restoration program, including intensive physical training, versus extensive use of passive modalities. (<u>Mannion, 2001</u>) (<u>Jousset, 2004</u>) (<u>Rainville, 2004</u>) One clinical trial found both effective, but chiropractic was slightly more favorable for acute back pain and physical therapy for chronic cases. (<u>Skargren, 1998</u>) See also specific physical therapy modalities, as well as <u>Exercise and Work conditioning</u>. [Physical therapy is the treatment of a disease or injury by the use of therapeutic exercise and other interventions that focus on improving posture, locomotion, strength, endurance, balance, coordination, joint mobility, flexibility, activities of daily living and alleviating pain. (<u>BlueCross BlueShield, 2005</u>)]</p> <p><b>Patient Selection Criteria:</b> Multiple studies have shown that patients with a high level of fear-avoidance do much better in a supervised physical therapy exercise program, and patients with low fear-avoidance do better following a self-directed exercise program. When using the Fear-Avoidance Beliefs Questionnaire (<u>FABQ</u>), scores greater than 34 predicted success with PT supervised care. (<u>Fritz, 2001</u>) (<u>Fritz, 2002</u>) (<u>George, 2003</u>) (<u>Klaber, 2004</u>) (<u>Hicks, 2005</u>) Without proper patient selection, routine physical therapy may be no more effective than one session of assessment and advice from a physical therapist. (<u>Frost, 2004</u>) Patients exhibiting the centralization phenomenon during lumbar range of motion testing should be treated with the specific exercises (flexion or extension) that promote centralization of symptoms. [The centralization phenomenon refers to the abolition of distal pain emanating from the spine in response</p>
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	to therapeutic exercises.] When findings from the patient's history or physical examination are associated with clinical instability, they should be treated with a trunk strengthening and stabilization exercise program. (Fritz-Spine, 2003)
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**ODG Disability Guidelines, Back Chapter – Physical Therapy:**

Allow for fading of treatment frequency (from up to 3 visits per week to 1 or less), plus active self-directed home PT

**Sprains and strains of back:**

10 visits over 5 weeks

**Lumbago:**

9 visits over 8 weeks

**Intervertebral disc disorders:**

Medical treatment: 10 visits over 8 weeks

Post-surgical treatment: 34 visits over 16 weeks

**Spinal stenosis:**

10 visits over 8 weeks

**Sciatica:**

10-12 visits over 8 weeks

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The physician providing this review is a medical doctor. The reviewer is national board certified in Physical Medicine and Rehabilitation. The reviewer is a member of AMA, AAPM&R, PASSOR. The reviewer has been in active practice for 7 ½ years.

Matutech is forwarding this decision by mail and in the case of time sensitive matters by facsimile to the Texas Department of Insurance, Division of Workers Compensation.

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

The written opinions provided by Matutech 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 Matutech for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Matutech 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. 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.

## 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.