



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: Health and Medical Practice Associates, 324 N. 23rd St. Ste. 201, Beaumont, TX 77707. MDR Tracking No.: M5-06-1719-01. Claim No.: Injured Employee's Name: Date of Injury: Employer's Name: Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position summary states, "Based on the above TDI rulings and additional documentation, I request you initiate additional payment for the services performed on the above dates of service. All services performed were well within accepted standards of care." 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 statement submitted by Texas Mutual does not address the disputed issues. Principle Documentation: 1. DWC-60/Table of Disputed Service

PART IV: SUMMARY OF DISPUTE AND FINDINGS - Medical Necessity Services

Table with 4 columns: Date(s) of Service, CPT Code(s) or Description, Medically Necessary?, Additional Amount Due (if any). Row 1: 6-30-05 - 8-25-05, 97032 (\$19.09 x 41 units), [X] Yes [] No, \$782.69

6-30-05 – 8-03-05	97035 (\$14.71 x 26 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$382.46
6-30-05 – 8-02-05	97140 (\$31.96 x 7 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$223.72
8-10-05 – 8-24-05	97124 (\$26.73 x 5 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$133.65
8-9-05 – 9-14-05	97530 (\$35.34 x 15 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$530.10
7-6-05 - and 11-9-05	95900-WP (\$74.59 x13 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$973.70
7-7-05 - and 11-9-05	95904-WP (\$63.75 x 12 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$765.00
11-9-05	95903-WP (\$80.83 x 2 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$61.66
7-5-05 and 7-12-05	76536, 76800, 76880, 99273	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
	Grand Total		\$3,852.98

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 prevail on the disputed medical necessity issues. The amount due the Requestor for the items denied for medical necessity is \$3,852.98.

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 6-20-06 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.

CPT code 97110 on 7-20-05 was denied by the Respondent as "B15-Payment adjusted because this procedure/service is not paid separately," "891-The insurance company is reducing or denying payment after reconsidering a bill," "434-Per CCI edits, the value of this procedure is included in the value of the mutually exclusive procedure," and "790-This charge was reduced in accordance to the Texas Medical Fee Guideline." Per Rule 134.202 these services are not global to any other service performed on this date of service. Reimbursement of \$101.22 (\$33.74 x 3 units) is recommended.

Regarding CPT code 72100-WP on 8-10-05: Neither the Respondent nor the Requestor provided EOB's. The requestor did not submit convincing evidence of carrier receipt of provider's request for an EOB or a copy of the medical bill in accordance with 133.307 (e). Recommend no reimbursement.

CPT code 95900-59 on 11-9-05 was denied by the Respondent as "97-Payment is included in the allowance for another procedure/service," "891-The insurance company is reducing or denying payment after reconsidering a bill," "435-Per CCI edits, the value of this procedure is included in the value of the mutually exclusive procedure," and "W-4-No additional reimbursement allowed after appeal/reconsideration." Per Rule 134.202 these services are not global to any other service performed on this date of service. Reimbursement of \$149.18 (\$74.59 x 2 units) is recommended.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 134.1, and Rule 134.202(c)(1)
Texas Labor Code 413.011(a-d) and 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 Respondent must refund the amount of the IRO fee (\$650.00) to the Requestor within 30 days of receipt of this order. The Division has determined that the Requestor is entitled to reimbursement in the amount of \$4,103.38. 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:

Medical Dispute Officer

9-8-06

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: M5-06-1719-01
NAME OF REQUESTOR: Health & Medical Practice Associates
NAME OF CARRIER: Texas Mutual Insurance
DATE OF REPORT: 07/06/06
DATE OF AMENDED REPORT: 09/01/06
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 an M.D. physician reviewer who is Board Certified in the area of Pain 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:

- There was an initial report dated 06/29/05 from William Novelli, M.D. The diagnosis was displacement cervical intervertebral disc, left shoulder sprain/strain, and superficial muscle spasm.
- 07/05/05 – Kevin Drake, M.D. There was evaluation of nine cervical scans.
- 07/19/05 – Functional Capacity Evaluation.
- 08/15/05 – MRI of the cervical spine. Impression was left posterolateral and paracentral disc herniation at C5-C6 noted and straightened cervical curvature noted.
- There was a Designated Doctor Evaluation by Jeffrey Kalina, M.D. It was Dr. Kalina's opinion that the employee had not reached Maximum Medical Improvement (MMI), and the employee would benefit from a full set of three epidural steroid injections.
- There was documentation from Health & Medical Practice Associates by William Novelli, M.D. The dates of service were from 06/29/05 through 09/14/05.
- There was medical documentation and medical progress notes from 06/29/05 through 06/30/05.
- 08/15/05 – MRI of the left shoulder by Edward Knudson, M.D.
- 08/15/05 – MRI of the cervical spine by Edward Knudson, M.D.
- On 08/24/05, the claimant went to Health & Medical Practice Associates.
- 09/21/05 – Dr. McMeans.
- There was an EMG dated 11/09/05.
- 11/14/05 – A Functional Capacity Evaluation (FCE) was performed at Health & Medical Practice Associates by Patrick McMeans, M.D. It was noted that the employee was given a home exercise program and was to follow-up in approximately one month for evaluation.
- 12/14/05 – There was a request for an epidural steroid injection.
- 03/15/06 – The claimant saw Omar Vidal, M.D.
- 04/12/06 – The claimant saw Omar Vidal, M.D.
- 04/19/06 – Operative report, Boris Payan, M.D.
- 04/19/06 – Radiology report, Boris Payan, M.D.
- There was a follow-up office visit on 05/03/06 with Boris Payan, M.D.
- 05/31/06 – Boris Payan, M.D.

CLINICAL HISTORY SUMMARIZED:

The injured employee sustained an injury on ___ when he was climbing on top of a truck mounted forklift. The employee's left foot slipped off the tire and he was trying to hold the handrail and rollbar when he felt a pop in his left shoulder.

There was an initial report dated 06/29/05. X-ray findings of the cervical spine were found to be negative for fracture or dislocation. They revealed moderately decreased lordotic curve, left

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lateral deviation at C3-C7 and narrowed disc space at C5-C6. X-rays of the left shoulder were negative for fracture.

The employee was seen in the office on 06/29/05 with cervical pain and left shoulder pain.

There were treatment notes from Health & Medical Practice Associates from 06/29/05 to 09/14/05.

On 07/05/05, there was an evaluation of the nine cervical scans.

On 07/06/05, there was a motor nerve conduction velocity study. The tests revealed positive nerve involvement at the following listed nerve sites, musculocutaneous nerve 20%, radial nerve 50%, median nerve 27%.

On 07/07/05, a sensory nerve study was performed which revealed positive sensory involvement of the trigeminal and C2 lesser occipital.

There was a Functional Capacity Evaluation (FCE) performed on 07/19/05. The recommendations at that time was that the employee remain off work.

There was an MRI of the cervical spine dated 08/15/05. The impression was left posterolateral and paracentral disc herniation at C5-C6, as well as straightened cervical curvature.

During an evaluation on 08/24/05 by Patrick McMeans, M.D., it was noted that the employee's current treatment program consisted of passive and active modalities and included specific strengthening and stabilization exercises. MRI studies were ordered and obtained. However, the results of the MRI were inconclusive. The claimant was to return in four weeks for further treatment recommendations.

There was a nerve conduction velocity study (NCV) on 09/05/05 by Meyer Proler, M.D. There was no evidence of peripheral neuropathy suggested evidence of moderate acute left C5-C6 radiculopathy.

On 09/21/05, there was a supplemental report from Dr. McMeans. It was noted that the employee had shown improvement with his neck and left shoulder. Examination of the cervical spine revealed mild tenderness. Orthopedic examination of the cervical spine revealed a mildly positive foraminal compression test primarily on the left. Due to the injured employee's continued subjective complaints and continuing radicular symptoms, Dr. McMeans recommended that he be referred for an upper extremity EMG/NCV study.

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On 11/09/05, there was an electromyography (EMG) which revealed 1+ fibrillation and 1+ sharp wave activity and left C5-C6 nerve roots.

There was an FCE performed on 11/14/05. It was noted that the employee would be able to return to medium level work duties; however, it should be noted that he had difficulty in several critical non-material handling tasks. He was unable to sit unsupported, bend, stoop, and perform repetitive elevated work. For those reasons, it was recommended that he remain at his current no-work status, as there was no light duty or light to medium job duties available. The EMG findings were suggestive of moderately acute left C5-C6 radiculopathy.

There was a Designated Doctor Evaluation on 01/03/06 by Jeffrey Kalina, M.D. The employee was not found to be at Maximum Medical Improvement (MMI) on that date.

On 03/15/06, the claimant saw Omar Vidal, M.D. The assessment and plan was cervical pain, cervical radiculopathy, rule out herniated nucleus pulposus of the cervical spine, left shoulder pain, rule out internal derangement of the left shoulder, referral to an orthopedic surgeon was recommended. The employee's cervical spine was positive for disc herniation at C5-C6 with a left posterolateral paracentral disc herniation. It was recommended that the claimant receive a cervical steroid injection.

On 04/12/06, the claimant saw Dr. Vidal. A transforaminal epidural steroid injection on the left and right side at C5-C6 was recommended.

On 04/19/06, the claimant received a cervical epidural steroid injection.

There was a follow-up office visit with Dr. Forest Payan on 05/03/06. The injured employee was to continue present medications and was to receive another cervical epidural steroid injection.

On 05/31/06, the employee returned to Dr. Payan. The diagnosis was the same.

Disputed Services:

97032 – Electrical stimulation, 97140 – manual therapy technique, 97124 – massage, 97530 – therapeutic activities, 97035 – ultrasound, 99273 – Confirm Consultation, 95900 – WP, 95903 – WP, 95904 – WP – nerve conduction studies, 76536 – ultrasound, 76880 – ultrasound, 76880 – ultrasound. Denied for medical necessity. Dates of service - 06/30/05 – 11/09/05.

Decision:

1. The following were approved for eight weeks (06/30/05 – 08/25/05)
 - 97032 – Electrical Simulation
 - 97140 – Manual Therapy
 - 97124 – Massage
 - 97035 – Ultrasound
2. The following were approved for twelve weeks (06/30/05 – 09/22/05)
 - 97530 – Therapeutic Activities
3. Nerve conduction studies (95900, 95903, 95904) were appropriate and are approved.
4. The 76536 – Ultrasound, 76800 and Ultrasound, 76880 are not appropriate. Denied.
5. 99273 – Confirm Consultation not appropriate. Denied

Rationale/Basis for Decision:

The medical information indicates that this employee sustained an injury when his left foot slipped off a tire, and he felt a pop in the shoulder. The injury date is _____. The employee was referred within a few weeks for therapy. The employee was referred for treatment by Dr. Novelli including electrical stimulation and ultrasound treatments, as well as exercises. It appears the employee had treatment extending until November, 2005.

The *ACOEM Guidelines* for the upper extremity, Chapter 8 do indicate that there is a role for conservative based treatments including modalities as being reasonable, but there was no consensus in the evidence-based literature which supports a duration of five months, as in this case. Reasonable treatment guidelines do indicate that such treatments are appropriate, but in the acute phase of injury not to exceed two months.

Therefore, such treatments including electrical stimulation, manual therapy, massage, and ultrasound are appropriate within the first eight weeks. However, beyond eight weeks would not be superior to exercising in my opinion. Therapeutic exercises can continue for an additional four weeks (twelve weeks total) based upon the most reasonable guidelines. Diagnostic nerve conduction studies are appropriate to ascertain that there is no evidence of nerve damage. However, diagnostic ultrasound is a controversial modality for diagnostic purposes. I would not

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be of the opinion that such diagnostic ultrasounds have any merit and are not superior to MRI, CT scan, or EMG in terms of diagnosis. Therefore, they would be denied. Confirming consultation, is inappropriate, and is denied.

The rationale for the opinion stated in this report is based on the record review, the *ACOEM Guidelines*, as well as the 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 12th day of July, 2006 from the office of IMED, Inc.

Sincerely,

Charles Brawner
Secretary/General Counsel