



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

PART I: GENERAL INFORMATION

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier	
Requestor's Name and Address: Valley Spine Medical Center 5327 South McColl Rd. Edinburg, Texas 78539	MDR Tracking No.: M5-06-1738-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: TASB Risk MGMT Fund, Box 47	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.: 025001104181423

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary: "...Justification for unusual length of treatment: Medicare Guidelines are "Guidelines" for treating older arthritic conditions as a natural disease process of life. The patient has suffered a traumatic injury which caused some permanent impairment as a result of that injury..."

Principle Documentation:

1. DWC-60/Table of Disputed Services
2. CMS-1500's
3. EOBs
4. Medical notes

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary (Table of Disputed Services): "Treatment no longer r/n as related to wc injury"

Principle Documentation:

1. DWC-60/Table of Disputed Services/Position Summary

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)
7-5-05 – 9-29-05	99212-25, 99213, 99213-25, 99214-25, 97110, 97140, G0283, 97035, 97124, 99080-73, 62282, J040, A4550, 96150, 97750-FC	<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 Division has reviewed the enclosed IRO decision and determined that the Requestor did not prevail on the disputed medical necessity issues.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

Texas Labor Code 413.011(a-d) and 413.03128
28 Texas Administrative Code Sec, 133.308, 134.1

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 reimbursement of the IRO fee and is not entitled to reimbursement for the services involved in this dispute.

Findings and Decision by:

Medical Dispute Officer

9-08-06

Authorized Signature

Typed Name

Date of Findings and Decision

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 Medical Dispute Resolution M5 Retrospective Medical Necessity
IRO Decision Notification Letter**

Date:	08/22/2006
Injured Employee:	
MDR #:	M5-06-1738-01
DWC #:	
MCMC Certification #:	TDI IRO-5294

REQUESTED SERVICES:

Please review the item(s) in dispute: 99212-25, 99213, 99213-25, 99214-25-office visit, 97110-therapeutic exercises, 97140-manual therapy technique, G0283-electrical stimulation unattended, 97035-ultrasound, 97124-massage, 99080-73-DWC report, 62282-injection, J040-medication, A4550-surgical tray, 96150-assessment, and 97750-FC-FCE.

Dates of Service: 07/05/2005-09/29/2005

DECISION: Upheld

IRO MCMCllc (MCMC) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO) to render a recommendation regarding the medical necessity of the above disputed service.

Please be advised that a MCMC Physician Advisor has determined that your request for an M5 Retrospective Medical Dispute Resolution on 08/22/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity for the list of services listed above is not established for the dates of service in question.

CLINICAL HISTORY:

Records indicate that above captioned individual, a 54-year-old male, was allegedly injured during the course of his normal employment on 11/12___004. The history reveals that he was climbing off a roof and began to fall off the ladder. He grabbed the gutter, but it would not support him and he fell to the ground causing him to lose consciousness. He sustained cuts and abrasions and was taken to the local Emergency Room (ER) where he was evaluated, treated, x-rayed, given medications and released. MRI examination of the lumbar spine dated 12/01/2004 indicated the possible presence of vertebral contusions versus metastasis, disc protrusion at L4-S1 with associated stenosis, and a lesion in the annulus at L4/5. MRI of the left shoulder dated 12/01/2004 revealed acromioclavicular (AC) arthritis with possible impingement syndrome. MRI examination of the left knee was performed on 12/01/2004 which revealed a bone contusion on the lateral femoral condyle, Grade II sprain of the MCL, joint effusion, chondromalacia patella, but no evidence of meniscal tear. Electrodiagnostic evaluation of the lumbar spine and lower extremities dated 08/08/2005 revealed evidence of bilateral chronic S1 radiculopathy and nerve root irritation as well as evidence of diabetic changes to the nerves of the lower legs. Surgery was performed to the left knee on 03/02/2005. He then underwent a significant course of pre and post surgical rehabilitation. He eventually presented to the office of the current attending physician (AP) on or about 05/26/2005. He was referred for orthopedic evaluation and injections as well as medication management. A Functional Capacity Exam (FCE) dated 07/14/2005 revealed that the injured individual was performing at a Sedentary/Light Physical Demand Level (PDL) which did not match favorably with his required PDL of Medium/Heavy. A second FCE dated 09/29/2005 revealed that the injured individual was performing at a Light Medium PDL. On 08/01/2005, the injured individual underwent a designated doctor examination and was opined to be not at maximum medical improvement (MMI) as of that date. The injured individual also apparently participated in a series of injections.

REFERENCES:

References utilized in this review may include but are not limited to the ACEOM Guidelines, Official Disability Guidelines, Health Care Guidelines by Milliman and Robertson Volume 7, North American Spine Society Guidelines, Texas Medical Fee Guidelines, and Procedural Utilization Guidelines.

RATIONALE:

As of 07/05/2005, the injured individual had already completed a significant course of pre and post surgical rehabilitation both under the direction of the current attending physician (AP) as well as under the administration of the prior AP. As a result of the course of care from 05/26/2005 through the beginning of July (six weeks), it is not obvious from a review of the documentation that the injured individual was experiencing or reporting decreased pain levels, indicating a non-response to care. As of 07/08/2005, pain levels were 7+ out of 10, which does not show that he was progressing from the initial assessment on 05/26/2005, which listed him as reporting moderate to severe pain levels. Further, when comparing serial pain levels, the exam dated 06/10/2005 lists the injured individual's pain levels as 6+ of 10. Retrospectively, this is confirmed even further with comparative values on 08/19/2005 and 09/30/2005 of 7-8+ of 10. Moreover, subjective pain values dated 10/28/2005 were 9+ of 10. This apparently indicates that the injured individual was not subjectively responding to the initial and ongoing course of care.

From an objective standpoint, there is also little to no evidence that the injured individual was demonstrating progress during the initial course of care. This initial course of care and the documented response is vital in determining the appropriateness of care during the dates in question. A Functional Capacity Exam (FCE) dated 05/31/2005 revealed the injured individual was performing at a Light Medium PDL. However, on 07/14/2005, a follow-up FCE rated the injured individual as performing at a Sedentary Light Physical Demand Level (PDL). This, coupled with the above subjective findings, indicates degradation in symptoms. Yet, there is no obvious indication that this was ever addressed. Moreover, the initial FCE dated 05/31/2005 opined that the injured individual was likely able to perform at a level higher than what he was tested. Symptom magnification was reported or suspected at that point.

Given the apparent degradation in symptomatology during the initial course of care and the apparent symptom magnification on 05/31/2005, without addressing these issues, as of 07/05/2005, the medical necessity for the continued care captioned above is not established based on a review of the submitted documentation.

RECORDS REVIEWED:

- Notification of IRO Assignment dated 07-06
- MR-117 dated 07/06/06
- DWC-60
- DWC-73: Work Status Reports dated 06/30/05, 05/26/05, 03/10/05, 01/17/05
- MCMC: IRO Medical Dispute Resolution Retrospective Medical Necessity dated 07/19/06
- MCMC: IRO Acknowledgment and Invoice Notification Letter dated 07/07/06

- Valley Spine Medical Center: Requests for Reconsideration dated 02/10/06 from Janie Chavez (three)
- Health Insurance Claim Forms dated 02/10/06, 11/01/05, 10/11/05, 08/31/05, 08/01/05, 07/27/05, 07/26/05, 07/15/05, 07/11/05
- Valley Spine Medical Center: Follow Up Evaluations dated 10/28/05, 09/30/05, 08/19/05, 07/22/05, 07/08/05 from Gerardo Zavala, M.D.
- Valley Spine Medical Center: Letter dated 10/11/05 from Alex Flores, Jr., D.C.
- Valley Spine Medical Center: Interim Functional Capacity Evaluation dated 09/29/05 from Alex Flores, Jr., D.C.
- Explanation of Medical Benefits with Review dates of 08/16/05 through 11/29/05
- Gerardo Zavala, M.D.P.A.: Electrodiagnostic study dated 08/08/05
- Valley Spine Medical Center: Initial Functional Capacity Evaluation dated 07/14/05 from Alex Flores, D.C.
- Chronic Pain Institute: Work Hardening Mental Health Evaluation dated 07/13/05 from Alex Flores, Jr., D.C.
- Valley Spine Medical Center: Progress Notes dated 07/05/05 through 11/01/05
- Valley Spine Medical Center: Initial Medical Report dated 06/10/05 from Gerardo Zavala, M.D.
- MES Solutions: Letter dated 06/06/05 from Donald Nowlin, M.D.
- Functional Performance Rehabilitation Consultants: Functional Capacity Evaluation Report dated 05/31/05 from Spiros Katakis, OTR
- Functional Performance Rehabilitation Consultants: Prescription for Assessment Services dated 05/31/05
- Valley Spine Medical Center: Initial Medical Narrative Report dated 05/26/05 from Alex Flores, Jr., D.C.
- Pain Management Consultants: Follow-Up Office Visit note dated 03/10/05 from Jose Abyes, Jr., M.D.
- Knapp Medical Center: Operative Note dated 03/02/05 from S. Gopal Krishnan, M.D.
- Knabb Medical Center: Pathology consultation dated 03/02/05
- Robert Fountila, M.D.: Chest radiographs dated 02/28/05
- S. Gopal Krishnan, M.D.: Letter dated 02/08/05
- Southwest Orthopedic Group: Report dated 02/02/05 from Michael Albrecht, M.D.
- S. Gopal Krishnan, M.D.: Progress Notes dated 01/03/05 through 04/04/05
- San Benito Imaging Center: MRI left knee, MRI lumbar spine, MRI right shoulder dated 12/01/04

The reviewing provider is a **Licensed/Boarded Chiropractor** and certifies that no known conflict of interest exists between the reviewing **Chiropractor** 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 carrier health care providers who reviewed the case for decision prior to referral to the IRO. The reviewing physician is on DWC's Approved Doctor List.

This decision by MCMC is deemed to be a Division decision and order (133.308(p) (5)).

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.

In accordance with Division rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of DWC on this

__22nd__ day of __August__ 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____