



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:** ( ) Health Care Provider (X) Injured Employee ( ) Insurance Carrier

Requestor's Name and Address:

MDR Tracking No.: M5-06-1739-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

Liberty Mutual Fire Insurance, Box 28

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

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

Position Summary: "...I am asking that you reverse your decision with regards to these medications as they are absolutely reasonable and necessary and you have NO credible medical reports which suggest otherwise...."

Principle Documentation:

1. DWC-60/Table of Disputed Services/Position Summary
2. CMS-1500's
3. EOBs

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

Position Summary: "...You have been notified that these medications are no longer deemed reasonable or necessary...."

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)
5-19-06 and 5-22-06	Prescription medication Oxycodone (5 mg and 80 mg)	<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**

28 Texas Administrative Code Sec. 133.308  
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 reimbursement for the services involved in this dispute.

Findings and Decision by:

Medical Dispute Officer

8-07-06

\_\_\_\_\_  
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.**

July 25, 2006

TX DEPT OF INS DIV OF WC  
AUSTIN, TX 78744-1609

CLAIMANT: \_\_\_\_

EMPLOYEE: \_\_\_\_

POLICY: M5-06-1739-01

CLIENT TRACKING NUMBER: M5-06-1739-01 5278

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Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIOA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing between that provider 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 before referral to the IRO.

**Records Received:**

**Records received from the State**

Notification of IRO Assignment, 6/30/06

Notice of Receipt of Request for Medical Dispute Resolution, 6/5/06

List of Providers

Medical Dispute Resolution Request/Response Form, 6/9/05

Table of Disputed Services

Letter, Percival Spencer, Liberty Mutual, 5/31/06

**Records from Liberty Mutual, Respondent:**

Medical Services Company, Department of Clinical Services, PDRx – Pharmacist Drug Review, 11/23/04

Fax coversheet, Forward Health Solutions, 2/4/04

Preauthorization Request, 2/4/04, 5 pages

Letter of Medical Necessity, Winston Whitt, MD, undated

Letter, Rudolph Cartwright, MD, 12/19/03

Electrodiagnostic Evaluation, Mark Fredrickson, MD, 9/25/03

Evaluations, Hugh Ratliff, MD, 1/9/04, 4/9/04

Record review, Karl Erwin, 9/25/03

Record review, Karl Erwin, 1/23/04, with addendum, 2/10/04

Patient notes, Barbara Dill, PT, 8/18/03, 9/3/03, and 10/28/03

Patient notes, Donald Floyd, MD, 8/14/03, 9/4/03, 10/2/03, 10/30/03

Initial patient information and questionnaire, Odessa Injury Rehabilitation, 11/21/03

Odessa Injury & Rehab, Psychosocial Clinical Interview, 1/5/04

OIR CP Program Daily Notes, 8/24/04 – 9/24/04

Patient Records, Odessa Injury Rehabilitation, Exam Summary, Kinney Evitt, PT and Steven Sykes, DC, 1/5/04 – 2/7/05  
Patient Records Odessa Rehab & Injury, Gary Johnson, MD, LPC, 2/18/04 – 3/12/04  
Daily Progress notes, Odessa Injury Rehab Chronic Pain Management Program, C. Kelley Osborn, LPC, 8/30/04 – 9/24/04  
Letter of medical necessity, Winston Whitt, MD, 10/31/04  
Follow up notes, Winston Whitt, MD, 1/3/05, 2/7/05, 3/7/05, 4/11/05  
Notice of Disputed Issue(s) and Refusal to Pay Benefits. 5/9/05  
Progress graphs, 1/5/04 – 7/20/04  
Physical Therapy Referral Form, 6/15/04  
Odessa Injury Rehabilitation notes, 12/3/03 – 7/23/04, 1/7/05  
Odessa Injury Rehabilitation, Referral Information, Robert Griffith, DC, 12/15/03  
Odessa Injury Rehabilitation, Physical Therapy Evaluation, 1/5/04  
Patient Information Form, Daniel Kinzie, MD, 9/3/03, 9/10/03  
Handwritten PT notes, 8/19/03 – 10/29/03, Southwest Orthopaedic & Spine Center  
Daily flow sheets, 8/18/03 – 10/29/03  
Patient notes, 12/8/03, 12/15/03, 4/12/04, 6/7/04, 7/7/04, 8/2/04, 10/11/04, 11/15/04, 12/6/04, 1/3/05, and 2/7/05  
Odessa Injury Rehabilitation, Weekly Notes, 1/19/04 – 7/23/04  
Odessa Injury Rehabilitation, Daily Notes, 1/19/04 – 7/16/04  
Health & Behavior Re-Assessment, Michael Ghormley, PhD, 7/12/04  
Consultation Reports, Bob Hollander, DC, 2/3/04, 1/4/05, 1/7/05  
Letter of Medical Necessity, Bob Hollander, DC, 3/10/04  
Consultation Report, Dr. Trevor Crane, 4/15/05  
Prescription for PT, Edward Murphy, MD, 5/18/04  
Professional Reviews Inc, Physical Therapy Review, Elena Antonelli, MD, 2/5/04  
Professional Reviews Inc, Physician Pharmacy Review, Harold Marshall, MD, 2/22/06  
Patient notes, Abdul Kadir, MD, 11/4/03, 4/19/04, 8/13/04, 11/1/04, 1/11/05, 6/20/05  
Patient notes, Edward Murphy, MD, 5/18/04, 11/24/04, 5/26/05  
EMG nerve conduction study report, Donald Floyd, MD, 4/19/04  
Neurology consultation, Carl Brown, DO, 3/16/05  
Preauthorization Request, Chronic Pain Management Program, 8/12/04  
Patient notes, Dennis Shaughnessy, MD, 6/21/05 – 3/20/06  
Letter, Percival Spencer, Liberty Mutual, 10/24/05  
Designated Doctor Evaluation, Stevan Cordas, DO, 8/26/05  
Report of Medical Evaluation forms, 8/26/05, 10/5/05, 1/13/06  
CT scan report, West Texas Imaging, 3/9/04  
Cervical Myelogram, 3/9/04  
MRI, left shoulder, 7/17/03  
MRI, brachial plexus, 10/30/03  
MRI, cervical spine, 11/10/03  
Musculoskeletal Examination, 11/20/03  
Patient notes, Daniel Kinzie, MD, 7/17/03 – 11/10/03

### **Summary of Treatment/Case History:**

The patient is a 46 year-old male with a date of injury in \_\_\_\_\_. The patient sustained a left shoulder, cervical strain injury. He had MRIs showing HNP C5-7, a negative brachial plexus MRI, and an EMG showing question of stretch to the brachial plexus. He has been deemed nonsurgical for his neck and shoulder multiple times. He had trigger point injections, shoulder injections, months of PT over the years, a chronic pain management program, and psych therapy, all without relief. Initially, he was prescribed Ultracet, then Darvocet, then Lortab, then Oxycontin with Oxycodone, which began in 9/04. Slowly his Oxycontin dose has been escalating, and was at 40 mg tid with multiple Oxycodone per day for breakthrough, when a pharmacy review suggested increasing the Oxycontin dose, but reducing it to the recommended bid dosing schedule. The patient has been on Oxycontin 80 mg bid with Oxycodone up to 5 per day since 3/05, up

through the last note of 3/06. He is presently treated by an addiction specialist, who continued this prescription plan. He has had numerous IMEs, all of which recommended weaning off the narcotics. The patient is "allergic" to multiple NSAIDs. The notes indicate the patient wants to return to work as a truck driver, has been noted to be overly sedated at times, and is functioning at a sedentary level with 58% impairment rating.

**Questions for Review:**

Dates of Service 5/19/06–5/22/06

- Items in dispute: Prescription medication (Oxycodone 5 mg and 80 mg)

**Explanation of Findings:**

The patient is a 46 year–old male with chronic left shoulder pain and evidence of atrophy. The patient has been taking Oxycontin with Oxycodone since 9/04 and, unsurprisingly, his dose has increased over time, but has now stabilized since 3/05. He has a legitimate issue as evidenced by his functional capacity evaluation (FCE) and impairment rating. He will probably require a combination of medications including narcotics for pain control. A long–acting medication, like methadone, would be much more cost effective supplemented with a short acting narcotic like Oxycodone or Hydrocodone. Therefore, the recommendation would be to change Oxycontin to Methadone and switch the Oxycodone to Hydrocodone.

**Conclusion/Decision to Not Certify:**

- Items in dispute: Prescription medication (Oxycodone 5 mg and 80 mg)

This drug regimen was not medically necessary on the dates of service 5/19/06 and 5/22/06. It is not medically necessary to keep the original medication regimen for these dates of service, as other options are available. The use of Oxycontin and Oxycodone on the dates of service in question is not warranted.

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

Common practice among pain and osteopathic physicians.

**References Used in Support of Decision:**

Bonica's Management of Pain third edition copyright 2000. PDR copyright 2006. ACOEM guidelines copyright 2004.

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The physician providing this review is board certified in Anesthesiology and is a doctor of Osteopathy. The reviewer is currently an attending physician at a major medical center providing anesthesia and pain management services. The reviewer has participated in undergraduate and graduate research. The reviewer has been in active practice since 1988.

MRloA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, and the DWC.

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The written opinions provided by MRIOA 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 MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America 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 agrees to hold MRIOA harmless for any and all claims which may arise as a result of 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.

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Case Analyst: Valerie O ext 554