



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:

James Tanner, D. C.
 5350 Staples Ste. 210
 Corpus Christi, Texas 78411

MDR Tracking No.:

M5-06-1744-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

Box 01

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary: "...I would appreciate a review by a qualified individual in determining whether or not a functional capacity evaluation at this point in the treatment plan would be necessary...."

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

There was no response from the Respondent.

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)
3-30-06	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

28 Texas Administrative Code Sec. 133.308 and 134.1
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 reimbursement for the services involved in this dispute.

Findings and Decision by:

Authorized Signature

Medical Dispute Officer

Typed Name

8-10-06

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 31, 2006

Texas Department of Insurance Division of Texas Worker's Compensation
MS48
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1609

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-06-1744-01
DWC #: ____
Injured Employee: ____
Requestor: James Tanner, DC
Respondent: _____ /Parker & Associates
MAXIMUS Case #: TW06-0112

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. The TDI, Division of Workers Compensation (DWC) has assigned this case to MAXIMUS in accordance with Rule §133.308, which allows for a dispute resolution by an IRO.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the MAXIMUS external review panel who is familiar with the condition and treatment options at issue in this appeal. This case was also reviewed by a practicing chiropractor on the MAXIMUS external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the approved doctor list (ADL) of DWC or have been approved as an exception to the ADL requirement. A certification was signed that the reviewing chiropractic provider has no known conflicts of interest 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, was signed. In addition, the MAXIMUS chiropractic reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns an adult male who had a work related injury on _____. Records report that while airing up a large tire, it blew up causing him to fall and injure his lower back. Diagnoses included sacroiliac joint arthrosis, multilevel disc displacements, radiculopathy, lumbago, and trochanteric bursitis. Evaluation and treatment have included chiropractic care, MRI, neurodiagnostic studies, and physical therapy.

Requested Services

Functional capacity evaluation (97750-FC) on 3/30/06.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Request for Reconsideration – 4/17/06
2. Chiropractic Records – 10/5/05-5/3/06
3. Diagnostic Studies (e.g., MRI) – 12/14/05
4. Letter to Creative Risk Funding from Charles W. Kennedy Jr, MD – 12/13/05
5. Report of Medical Evaluation – 3/2/06

Documents Submitted by Respondent:

1. Diagnostic Studies (e.g., x-rays, MRI, electrodiagnostic study, etc) – 12/12/05-2/8/06.
2. Functional Capacity Assessment – 12/13/05
3. Carrier's Position Statement – not dated.

Decision

The Carrier's denial of authorization for the requested services is upheld.

Standard of Review

This MAXIMUS determination is based upon generally accepted standard and medical literature regarding the condition and services/supplies in the appeal.

Rationale/Basis for Decision

The MAXIMUS chiropractor consultant indicated that this patient was in a continued state of pain and was not responding to conservative care. The MAXIMUS chiropractor consultant noted that on 2/23/06, the member's treating chiropractor (Ruth M. Echavarria-Guel, DC) suggested getting epidural steroid injections. The MAXIMUS chiropractor consultant explained that a functional capacity evaluation would be indicated to determine if the patient was fit to return to work and at what level. The MAXIMUS chiropractor consultant also noted that the patient's doctor made no mention of the patient returning to work. The MAXIMUS chiropractor consultant indicated that the doctor also wanted him to be seen by an orthopedic surgeon for evaluation. The MAXIMUS chiropractor consultant noted that the standard of care is to first provide the patient with treatments (e.g., injections, orthopedic evaluation) and then provide a functional capacity evaluation to determine what the patient is capable of doing. The MAXIMUS chiropractor consultant noted that there was nothing to be gained from the functional capacity evaluation on 3/30/06. (Bogduk, et al. Medical Management of Acute and Chronic Low Back Pain, An Evidence Based Approach. 2002.)

The MAXIMUS chiropractic consultant concluded that the functional capacity evaluation (97750-FC) on 3/30/06 was not medically necessary for treatment of the member's condition.

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.

Sincerely,
MAXIMUS

Lisa Gebbie, MS, RN
State Appeals Department