



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

Requestor's Name and Address:

claimant

MDR Tracking No.: M5-06-1849-01
(former MDR# M4-06-1103-01)

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

Lumbermens Mutual Casualty Company
Rep Box # 42

Date of Injury:

Employer's Name:

Insurance Carrier's No.: 86092900854381

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Requestor's Position Summary: The Requestor did not submit a Position Summary to MDR.

Principle Documentation:

1. DWC 60/Table of Disputed Services
2. Receipts for prescription medications.

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Respondent's Position Summary: "We are disputing entitlement of prescription medication reimbursement request because: Carrier maintains dispute that treatment and medications are not reasonable, necessary or related. The interlocutory order is effective 09/28/05. Per interlocutory order, carrier is order to pay hydrocodone, carisoprodol, temazepam and naproxen only effective 09/28/05 forward."

Principle Documentation:

1. Response to DWC 60

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
12-03-04 to 07-29-05	Prescription medications	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
TOTAL DUE			\$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, Sec. 413.031 and 413.011 (a-d)

PART VII: DIVISION FINDINGS AND 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:

10-06-06

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:	09/07/2006
Injured Employee:	
MDR #:	M5-06-1849-01
DWC #:	
MCMC Certification #:	TDI IRO-5294

REQUESTED SERVICES:

Please review the item(s) in dispute: Carisoprodol, naproxen, temazepam, and Hydrocodone/APAP

Dates of service (DOS): 12/03/2004-07/29/2005

DECISION: Upheld

IRO MCMCIIc (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 09/07/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

There is no clinical support for any of these medications for dates of service in question.

CLINICAL HISTORY:

The injured individual is a male who fell over five years ago and injured his left side. He has taken Soma, hydrocodone, naproxen, and temazepam for years and has not been reimbursed for these for the past 18 months. These medications were used for years before this but have had no positive impact on this injured individual as his pain scores are chronically 7/10 despite their usage and his function has not been impacted by their usage either. There is no clinical indication why the injured individual would require these multiple medications or why an over the counter (OTC) alternative would not be as reasonable.

REFERENCE:

Bonica's Management of Pain. Third edition. Copyright 2000.

RATIONALE:

The injured individual is a male with date of injury 01/2001. The injured individual injured his neck, left shoulder, back, left knee, and ankle in a fall. He had subsequent shoulder surgery and two lumbar surgeries. A lumbar fusion is now requested. The injured individual had work hardening, physical therapy (PT), and psychiatric therapy. A chronic pain program was requested but not done. The injured individual has been on Soma, Vicodin, naproxen, and temazepam for years with the same pain scores (7/10) noted. He had an Independent Medical Exam (IME) in 04/2004, which recognized he had Degenerative Disc Disease (DDD) of his knees and ankles from the injury and recommended a NSAID for this only. There is no strong indication why this injured individual should require multiple prescribed medications for a five and one half year old injury when they apparently have not benefited him thus far. His pain scores and function have never improved nor has he returned to work (RTW) in any capacity although he tested in work hardening at medium/heavy duty capability.

DATES RECORDS RECEIVED:

Medicals received 09/05/2006 and consolidated.

RECORDS REVIEWED:

Notification of IRO Assignment dated 07/20/06

MR-117 dated 07/20/06

DWC-60

DWC-62: Explanation of Benefits for DOS 11/05/04

DWC-49: Request for Prospective Review of Medical Care Not Requiring Preauthorization from Charles George, M.D. (undated, handwritten)

DWC-69: Reports of Medical Evaluation signed 08/18/03, 09/27/01, 08/20/01 and three with Date of Exams of 05/08/03, 08/27/02, 05/30/02

DWC-73: Work Status Reports dated 10/15/00 through 07/06/06

MCMC: IRO Medical Dispute Resolution Retrospective Medical Necessity dated 08/21/06

MCMC: IRO Medical Dispute Resolution M5 Retrospective dated 07/20/06

MCMC: Statement dated 07/21/06

ESIS: Letter dated 08/30/06 from R. C. Jones

ESIS: Statement dated 08/14/06

Houston Center for Pain Medicine: Handwritten Progress Notes dated 03/21/06, 04/17/03, 12/05/02

Lonestar Orthopedics: Orthopedic Report dated 03/09/06 from Jasmin Erlichman, M.D.

Fax Cover Sheet (handwritten) dated 10/31/05

DWC: Medical Interlocutory Order dated 09/28/05

DWC: Letter signed 09/15/05 by George Medley, M.D.

DWC: Notice to the Proposing Doctor, Insurance Carrier and Prime Doctor dated 09/01/05

The Spine & Rehabilitation Centers: Letter dated 07/28/05 from Felicia Dirden, Billing Dept.

Pain Management Consultants: Follow-Up Office Visit notes dated 02/21/05, 12/20/04 from Jose Reyes, Jr., M.D.

The Spine & Rehabilitation Centers: Letters of Medical Necessity dated 02/14/05, 12/18/02, 05/31/02 from Scott Neuburger, D.C.

Eng's Pharmacy: Prescription labels dated 12/03/04 through 03/03/05, 04/01/05 through 06/03/05, 07/01/05 through 07/29/05

The Spine & Rehabilitation Centers: Work Hardening Progress Notes for the periods 11/22/04 through 11/24/04, 11/15/04 through 11/19/04, 11/08/04 through 11/12/04, 11/01/04 through 11/05/04 from Alexa Ramirez, EP

Pain Management Consultants: Initial Visit Comprehensive Evaluation dated 11/01/04 from Jose Reyes, Jr., M.D.

Healthpartners: Initial Interview dated 10/11/04 from James Flowers, MA

St. David's Occupational Health Services: Handwritten note dated 06/14/02

Charles E. George, M.D.: Independent Medical Evaluation dated 04/12/04

The Spine & Rehabilitation Centers: Physical Therapy notes dated 01/30/04, 01/28/04, 01/14/04, 12/31/03, 12/29/03 from Lelet Coloma, L.P.T.

The Spine and Rehabilitation Center: Handwritten Physical Therapy Re-evaluations dated 12/29/03, 05/21/03, 03/11/03, 01/17/03, 01/29/02 from Lelet Coloma, PT

Vista Medical Center Hospital: Operative Report dated 12/06/03 from Ken Berliner, M.D.

Mark A. Doyne, M.D.: Review dated 08/25/03

X-Ray Express: Cross-Table Portable Lumbar Spine Surgery dated 12/08/03, chest radiographs dated 12/05/03, chest radiographs dated 12/13/02

Vista Medical Center Hospital: Preanesthesia Consult dated 12/06/03 from Richard Kaura, Jr., D.O.

J. Anthony Walter, M.D.: Designated Doctor Report dated 08/12/03
Forte: Notice of Independent Review Decision dated 07/09/03 from Kimberly Wassmuth
Houston Hand & Upper Extremity Center: Established Visit report dated 06/25/03
The Spine & Rehabilitation Centers: Physical Therapy Progress Notes dated 06/18/03, 06/10/03, 05/23/03, 05/09/03, 05/02/03 from Lelet Coloma, L.P.T.
James Hood, M.D.: Letter dated 06/04/03
Houston Hand & Upper Extremity Center: Post-Operative Visit note dated 04/04/03 from Marcos Masson, M.D.
Park Plaza Hospital: Operative Report dated 02/20/03 from Marcos Masson, M.D.
Summit Surgical Center: Operative Report dated 01/16/03 from Ben Tionson, M.D.
Pain Reduction Center: Consultation Report dated 01/13/03 from Ben Tionson, M.D. with attached handwritten note
North Houston Imaging Center: Imaging Reports dated 12/30/02
Lonestar Orthopedics: Letter dated 12/17/02 from Kenneth Berliner, M.D.
Short Stay Forms (handwritten) dated 12/10/02, 11/02/01, 01/24/01
Green Oaks Pain Center: Discharge Summary dated 11/25/02 from D. Any Lun, M.A., LPC
Houston Center for Pain Medicine: Clinical Interview for Pain Management (handwritten) dated 11/14/02
Houston Center for Pain Medicine: Psychiatric Assessment dated 11/01/02 from Jasmin Erlichman, M.D.
Spine and Rehabilitation Center: Handwritten Progress Notes dated 09/25/02 through 04/14/03
Psychology Note (handwritten) dated 09/24/02
Green Oaks Pain Center: Psychiatric Evaluation dated 09/03/02 from Emilio Cardona, M.D.
Carlton E. Smith, M.D.: Designated Doctor Evaluations dated 08/27/02, 05/30/02
Baylor Sports Medicine Institute: New Knee Evaluation dated 06/12/02 from David Lintner, M.D.
Lonestar Orthopedics: Routine Follow Up note (handwritten) dated 04/30/02
Robert S. Francis, D.C.: Report dated 04/18/02
Spine & Rehabilitation Center: Functional Capacity Evaluation Report dated 03/07/02 from A. Anthony Child, MS, PT
Fannin Street Imaging & Diagnostic Center: Radiology report dated 01/16/02
Houston Center for Pain Management: Psychophysiological Profile Assessment (handwritten) dated 01/09/02
Vista Medical Center Hospital: Operative Report dated 11/02/01 from Richard Kaura, Jr., D.O.
Vista Diagnostic Center: X-ray of the chest dated 11/01/01, x-ray of the lumbar spine dated 11/01/01
Timothy L. Cobb, PA-C: History and Physical (handwritten) dated 10/30/01
Chimney Rock Health Center: Designated Doctor Evaluation dated 09/27/01 from Art Keller, D.C.
Scott Neuburger, D.C.: Subsequent Medical Report dated 09/14/01
Lubor J. Jarolimek, M.D.: Report dated 07/19/01
Andrew S. Levine, M.D.: Independent Medical Evaluation dated 07/10/01
MedTest: Report Summary for Functional Capacity Evaluation/Physical Performance Test dated 06/29/01 from Bryan Hasse, D.C.
Mary Lou Mausolf, D.C.: Office Note dated 05/17/01
Memorial Surgical Center: Operative Reports dated 04/30/01, 05/14/01, 05/07/01 from Ed Lewis, M.D.
Lonestar Orthopedics: Orthopedic Reports dated 04/11/01 through 07/06/06 from Kenneth Berliner, M.D.
Edward A. Lewis, M.D.: Clinic Notes dated 03/26/01, 04/16/01, 06/25/01
Imaging Institute of Texas: MRI cervical spine dated 03/19/01
Lonestar Orthopedics: Orthopedic Consult dated 03/14/01 from Kenneth Berliner, M.D.
The Spine & Rehabilitation Centers: Office Notes dated 03/02/01 through 12/15/04 from Scott Neuburger, D.C.
Edward Lewis, M.D.: Initial Consultation dated 02/20/01
Downtown Plaza Imaging Center: Radiology report dated 02/16/01
Scott Neuburger, D.C.: Initial Medical Evaluation dated 02/14/01
Clinical History notes (handwritten) dated 02/09/01, 01/31/01
The Spine & Rehabilitation Centers: Impairment Rating Evaluation Report dated 01/29/01 from Scott Neuburger, D.C.
The Spine & Rehabilitation Centers: Subsequent Medical Report dated 12/19/01
Lonestar Orthopedics: Undated Pre-Op Orders from Kenneth Berliner, M.D.

The reviewing provider is a **Licensed/Boarded Anesthesiologist/ Pain Management and certifies that no known conflict of interest exists between the reviewing **Anesthesiologist/ Pain Management** 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

7th day of September 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____

MCMC llc ▪ 88 Black Falcon Avenue, Suite 353 ▪ Boston, MA 02210 ▪ 800-227-1464 ▪ 617-375-7777 (fax)

mcmman@mcmman.com ▪ www.mcmman.com