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: Ergonomic Rehabilitation of Houston 283 Lockhaven Drive, Suite 315 Houston, Texas 77073	MDR Tracking No.: M5-06-1900-01 (current MDR #) M4-06-5990-01 (former MDR #) Claim No.: Injured Employee's Name:
Respondent's Name and Address: Texas Mutual Insurance Company Rep Box # 54	Date of Injury: Employer's Name: Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Requestor's Position Summary: "According to Official Disability Guidelines, 34 visits of physical therapy over 16 weeks would be considered reasonable and necessary for this patient's injury. Our services not only fell within the parameters of the Official Disability Guidelines, they actually are 12% less than recommended by the Official Disability guidelines for this injury."

Principle Documentation:

1. DWC 60/Table of Disputed Services
2. CMS 1500's
3. Explanation of Benefits

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Respondent's Position Summary: Position statement submitted by Texas Mutual does not address the disputed services.

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)
06-02-05 and 06-06-05 to 06-23-05	97110 (1 unit @ $35.86 X 10 units)	☒ Yes ☐ No	$358.60
05-17-05, 05-18-05, 05-24-05 and 06-03-05	97110 (1 unit @ $35.86 X 2 units = $71.72 X4 DOS	☒ Yes ☐ No	$286.88
05-19-05	97110 (1 unit @$35.86 X 5 units - payment of $108.13)	☒ Yes ☐ No	$71.17
06-29-05 to 07-26-05	97110	☐ Yes ☒ No	$0.00
	TOTAL DUE		$716.65

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 **majority** of the disputed medical necessity issues.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 134.1 and 134.202
Texas Labor Code, Sec. 413.031 and 413.011 (a-d)

PART VII: DIVISION FINDINGS AND ORDER

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 entitled to reimbursement in the amount of $716.65. In addition, the Division finds that the Requestor was not the prevailing party and is not entitled to a refund of the IRO fee. 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.

Order by:

	Medical Dispute Officer	09-27-06
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.

CompPartners Final Report

ACCREDITED EXTERNAL REVIEW

CompPartners Peer Review Network
Physician Review Recommendation
Prepared for TDI/DWC

Claimant Name: ___
Texas IRO # : ___
MDR #: M5-06-1900-01
Social Security #:
Treating Provider: James Mathis, MD
Review: Chart
State: TX
Date Completed: 8/18/06

Date Amended: **9/11/06**

Review Data:

- **Notification of IRO Assignment dated 7/19/06, 1 page.**
- **Receipt of Request dated 7/19/06, 1 page.**
- **Medical Dispute Resolution Request/Response dated 5/16/06, 2 pages.**
- **Table of Disputed Services dated 7/26/05, 7/22/05, 7/19/05, 7/18/05, 7/14/05, 7/12/05, 7/8/05, 7/7/05, 7/6/05, 6/30/05, 6/29/05, 6/28/05, 6/23/05, 6/22/05, 6/20/05, 6/16/05, 6/15/05, 6/14/05, 6/8/05, 6/7/05, 6/6/05, 6/3/05, 6/2/05, 5/24/05, 5/19/05, 5/18/05, 5/17/05, 2 pages.**
- **List of Treating Providers (date unspecified), 1 page.**
- **Explanation of Benefits dated 7/26/05, 7/22/05, 7/19/05, 7/18/05, 7/14/05, 7/12/05, 7/8/05, 7/7/05, 7/6/05, 6/30/05, 6/29/05, 6/28/05, 6/23/05, 6/22/05, 6/20/05, 6/16/05, 6/15/05, 6/14/05, 6/8/05, 6/7/05, 6/6/05, 6/3/05, 6/2/05, 5/24/05, 5/19/05, 5/18/05, 5/17/05, 5/13/05, 5/11/05, 9 pages.**
- **Operative Report dated 2/24/05, 2 pages.**
- **Examination dated 5/2/05, 2 pages**
- **Initial Rehabilitation Evaluation dated 5/10/05, 3 pages**
- **Progress Note dated 7/29/05, 7/22/05, 7/8/05, 6/24/05, 6/10/05, 6/3/05, 5/20/05, 14 pages.**
- **Article on Rehabilitation (date unspecified), 1 page.**

Reason for Assignment by TDI/DWC: Determine the appropriateness of the previously denied request for therapeutic exercises from 5/17/05 to 7/26/05.

Determination:
PARTIAL - REVERSED - the previously denied request for therapeutic exercises from 5/17/05 to 6/24/05.
PARTIAL - UPHELD - the previously denied request for therapeutic exercises from 6/25/05 to 7/26/05.

Rationale:

Patient's age: 35 years
Gender: Female
Date of Injury:
Mechanism of Injury: Slip and fall.

Diagnoses: Left lateral malleolus fracture, Weber Type B. (Weber Type B describes an oblique fracture of the lateral malleolus with or without rupture of the tibiofibular syndesmosis and medial injury, either medial malleolus fracture or deltoid rupture. These result from external rotation.)

The claimant is a 35-year-old female security officer that injured her left ankle when she slipped and fell on 02/14/05. An open reduction internal fixation of the left ankle was performed on 02/24/05. At nine weeks post-operative, the claimant was using two crutches and non-weight bearing on the left. Radiology films showed a healed fracture that was mortise reduced. The claimant was told to begin weight bearing, given a Thera-band and physical therapy was ordered.

The initial physical therapy consultation documented the claimant to be using one crutch with partial weight bearing. Left ankle range of motion was dorsiflexion -20, plantar flexion 20; inversion and eversion 0. At the end of May 2005, the claimant was able to ambulate without crutches and had improved strength, range of motion and was instructed on a home exercise program. June 2005 progress notes documented the claimant was interested in a work hardening program for her high physical demand position and cardiovascular exercises were added. Progress included increased resistance and repetitions of the exercises while the strength and range of motion improved. At the start of week eleven, the claimant had improved range of motion to dorsiflexion 7; plantar flexion 48, inversion 22, eversion 18, cardiovascular exercise for fifteen minutes and pain decreased to a three out of ten. Therapeutic exercises from 05/17/05 through 07/26/05 would not be recommended as being medically necessary in their entirety.

Typically, therapy after open reduction and internal fixation of an ankle fracture is performed within the first three or four months after the operation. The claimant was noted after 05/20/05 to have increased ankle range of motion and increased strength. The

therapy beyond that period of time appears to have been directed more toward strengthening endurance and work hardening. This reviewer believes it would have been reasonable to pursue strengthening through 06/24/05. At that point, the claimant would be four months post-operative and this reviewer would not expect a formal physical therapy program to be required. Forty-five minutes of physical therapy seems appropriate as well.

Criteria/Guidelines utilized: TDI/DWC Rules and Regulations.
ACOEM Guidelines do not apply.
Official Disability Guidelines, Treatment in Workers' Compensation, 4th Edition, 2006, pg. 50.

Physician Reviewers Specialty: Orthopedic Surgery

Physician Reviewers Qualifications: Licensed M.D. in Orthopedic Surgery.

CompPartners, Inc. hereby certifies that the reviewing physician or provider has certified that no known conflicts of interest exist 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 the decision before the referral to CompPartners, Inc.

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 to the carrier, requestor, claimant and the Division via facsimile or U.S. Postal Service from the office of the IRO on this
Day, September 11th of 2006.

Signature of IRO Employee:

Printed Name of IRO Employee ***Lee-Anne Strang***