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: Ash Britt Jene Physical Med Center 204 S. Cedar Ridge Drive Duncanville, Texas 75116	MDR Tracking No.: M5-06-1948-01 (current MDR #) M4-06-7075-01 (former MDR #)
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: ACE American Insurance Company Rep Box # 15	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Requestor's Position Summary: Per the Table of Disputed Services "pt. approved by adj."

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: "In conclusion, the services in dispute in this matter are not related to the compensable injury as the Claimant's injury of resolved before the treatment in dispute started. Further, the treatment has been excessive, medically unnecessary, and ineffective. Additionally, the Requestor claims to have received verbal preauthorization for these services. However, that is an untrue statement. According to TWCC Rule 134.600 in effect at time of service, preauthorization did not address physical therapy services. The Carrier in this matter explained to the Requestor that the treatment rendered would be subject to retrospective review."

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)
07-12-05 to 10-14-05	99213, 97110, 97124, 97022 and 97035	☐ Yes ☒ 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, 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 and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

		10-05-06
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.

IMED, INC.

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NOTICE OF INDEPENDENT REVIEW

NAME OF EMPLOYEE:
IRO TRACKING NUMBER: M5-06-1948-01
NAME OF REQUESTOR: Ashe Britt Physical Medicine Center
NAME OF CARRIER: Ace American Insurance
DATE OF REPORT: 09/20/06
IRO CERTIFICATE NUMBER: 5320

TRANSMITTED VIA FAX:

IMED, Inc. has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO).

In accordance with the requirement for TDI to randomly assign cased to IROs, TDI has assigned your case to IMED, Inc. for an independent review. The peer reviewer selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the peer reviewer reviewed relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by an M.D. physician reviewer who is Board Certified in the area of Physical Medicine and is currently listed on the DWC approved doctor list.

I am the Secretary and General Counsel of IMED, Inc., and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and the provider, the injured employee, 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 Independent Review Organization. I further certify that no conflicts of interest of any nature exist between any of the aforementioned parties and any director, officer, or employee of IMED, Inc.

REVIEWER REPORT

I have reviewed the records forwarded on the above injured worker and have answered the questions submitted.

Information Provided for Review:

- Employer's First Report of Injury or Illness.
- 07/07/04, 07/15/04, 07/19/04, 08/23/04, 09/15/04, 09/30/04, 11/01/04, 12/02/04, 12/07/04 – Medical report from Ronald J. Washington, M.D.
- 12/16/04 – TWCC-69 - Medical evaluation report, designated doctor, Douglas M. Wood, D.O.
- 01/14/05 – MRI left hip.
- 01/14/05 – MRI lumbar spine.
- 02/04/05 – X-ray of bilateral hips.
- 04/20/05 – Notice of disputed issue and refusal to pay benefit from Sedwick, Claims Management Services, Inc.
- Medical reports from Ronald J. Washington, M.D., 01/20/05.
- TWCC-69 – Impairment rating from Dr. Washington dated 03/14/05.
- Medical report from Dr. Washington dated 04/12/05 & 05/03/05.
- Physician advisor review dated 05/08/05, David H. Trotter, M.D.
- 05/11/05 – Report of medical evaluation from Dr. Josh Nachinson.
- Cumulative impact analysis from IntraCorp dated 06/17/05.
- Ash Britt Je-Ne Physical Medicine Center, request medicine therapy three times four weeks, 06/20/05.
- 07/07/05 – Letter of verbal preauthorization.
- Medical report from Dr. Washington 07/11/05.
- Ash Britt Je-Ne Physical Medicine Center, treatment sessions beginning 07/12/05 through 08/06/05.
- 08/30/05 – Medical report, Dr. Washington.
- Ash Britt Je-Ne Physical Medicine Center, request for physical medicine therapy three times four weeks dated 09/02/05.
- Treatment at Ash Britt Je-Ne Physical Medicine Center from 09/14/05 through 10/14/05.
- Medical report from Dr. Washington 10/20/05 and 11/17/05.
- Peer review dated 12/18/05, from Zvi Kalisky, M.D., PM&R.
- 02/15/06 – Medical report from Dr. Washington.
- 03/02/06 – Medical report from Dr. Washington.
- 04/03/06 – Medical report from Dr. Washington.
- Resubmission of outstanding bills from Ash Britt Je-ne Physical Medicine Center dated for work done 07/12/05 through 10/17/05.
- Stafford Downs, P.C., Attorney representing Sedwick, letter as to medical dispute.
- Notes from a previous injury, an MRI evaluation of hips and groin regions and MRI of bilateral hips from 09/14/01.
- Letter from Dr. Joseph E. Jacko, designated doctor report from 10/31/02.
- Designated doctor report from 02/03/04 from Dr. Mary Elizabeth Dole.

Clinical History Summarized:

The Employers First Report of Injury or Illness dated indicated the employee was delivering a package when the stairs he was climbing collapsed at a trailer house location. It was indicated he injured his bilateral hips and low back.

The initial visit with Ronald Washington, M.D., on 07/07/04 described the injury and discussed a previous injury that was established. The employee was placed in an off work status.

The employee returned to Dr. Washington on 07/15/04, 07/19/04, 08/23/04, 09/15/04, 09/30/04, 11/01/04, 12/02/04, and 12/07/04. It was indicated that the employee's weight was 333 pounds. Records indicated he remained off work. During this time, the employee remained unchanged, and medications were Motrin and Hydrocodone.

A TWCC-69 medical evaluation was performed by a designated doctor on 12/16/04 and indicated the employee was not yet at Maximum Medical Improvement (MMI). It was not noted if the employee was still on an off work status.

An MRI of the left hip was accomplished on 01/14/05. The findings were suggestive of a small focal area of avascular necrosis or osteochondritis dissecans involving the right femoral head with associated degenerative change within the right hip joint. The left hip was unremarkable. An MRI of the lumbar spine was accomplished on the same day. The impression was a broad-based central posterior disc protrusion at the L4-L5 level producing mild central stenosis and effacement of the anterior dural sac, also disc desiccation at L4-L5 with no additional findings.

On 01/20/05, the employee returned to Dr. Washington.

X-rays of the bilateral hips on 02/04/05 indicated narrowing of the superior compartment of the right hip compatible with osteoarthritis.

Dr. Washington submitted a TWCC-69 impairment rating on 03/14/05, which indicated the employee had reached MMI with a 24% impairment.

On 04/12/05, the employee returned to see Dr. Washington for education counseling, medication review, and pain management. He was still receiving medications.

Notice of disputed issues; refusal of pay benefits was issued by Sedwick CMS on 04/26/05.

On 05/03/05, the employee returned to Dr. Washington. The notes indicated that the employee still had not reached preinjury status, and his condition continued to interfere with his ability to return to work and retaining employment.

A peer review was completed on 05/08/05 by Dr. David H. Trotter. He indicated the employee's overall medical condition appeared to be related exclusively to preexistent degenerative conditions in his spine and hip. The cumulative impact analysis completed on 06/17/05 indicated that previous work impairment impacted the impairment of and gave an analysis of what the actual impairment for the new injury was.

On 05/11/05, a designated doctor, Joel Nachinson, M.D., placed the employee at MMI as of 03/14/05.

On 06/20/05, Dr. Washington prescribed physical medicine therapy three times a week for four weeks with Ash Britt Je-Ne Physical Medicine Center.

The employee returned to see Dr. Washington on 07/03/05.

Treatments with Ash Britt Je-Ne Physical Medicine Center on 07/12/05 continued through 08/06/05.

The employee returned to see Dr. Washington on 08/30/05. He recommended another four weeks of therapy on 09/02/05, which commended on 09/14/05 through 10/14/05.

The employee returned to see Dr. Washington on 10/20/05 for counseling and advice and to explain TWCC appeal procedures.

On 11/27/05, the employee returned to see Dr. Washington.

A peer review was completed on 12/18/05 by Zvi Kalisky, M.D., PM&R physician. The impression was that the documentation did not present objective findings attributable to the work injury that would support a need for current treatment. The treatment plan was to wean the employee from the opioid Vicodin (Hydrocodone) and that treatment was not reasonable or necessary as related to the work injury, as the injury itself was a soft tissue injury, and treatment this late after the date of injury would not be reasonable or necessary. He did indicate that the weaning period for the Hydrocodone may take up to twelve weeks.

The employee returned to Dr. Washington on 02/15/06, 03/02/06, and 04/03/06. Dr. Washington continued to prescribe physical therapy exercise as a medical necessity.

A dispute from Ash Britt Je-Ne was filed for the physical therapy that was completed in July through October, 2005. Letter of preauthorization noted that verbal approval was given by CMS adjuster, Jessica Walker.

A letter from Downs Stafford, Attorney for the Sedwick Insurance Company, outlined their position for the medical dispute.

The only additional documentation available was the preinjury documentation of the report of medical evaluation for the employee's earlier date of injury of

Two designated doctor reports from 2002 and 2004 were available for review.

Disputed Services:

Items in Dispute: Ultrasound (97035), massage therapy (97124), office visits (99213), therapeutic exercises (97110), whirlpool (97022). Dates of service 07/12/05 through 10/14/05.

Decision:

The medical documentation submitted for review does not support the need for ultrasound (97035), massage therapy (97124), office visits (99213), therapeutic exercises (97110), or whirlpool (97022) for dates of service 07/12/05 through 10/14/05.

Rationale/Basis for Decision:

The employee developed difficulty with low back pain and left lower extremity pain primarily in the left hip after he fell while walking up steps at a trailer house location.

The employee was awarded a 20% whole body impairment as it related to the work injury on which appears to be related to difficulties associated with low back pain and right hip pain.

A thorough diagnostic assessment was accomplished. An MRI of the lumbar spine obtained on 01/14/05 revealed evidence for a central disc protrusion at L4-L5 and disc desiccation at L4-L5. The report did not describe the presence of any findings worrisome for an acute pathological process. X-rays of the hip accomplished on 02/04/05 indicated there was evidence for narrowing of the super compartment of the right hip compatible with osteoarthritis. There was evidence for sclerosis and subchondral cyst formation in the acetabulum. There were no abnormalities noted to be present in the left hip. An MRI of the left hip was obtained on 01/14/05 and was found to be unremarkable. Of note, the right hip was also imaged at the time the left hip MRI was

accomplished, and the right hip was notable for the fact that there was evidence for a small defect at the dome in the right femoral head that appeared to be consistent with an area of avascular necrosis. Therefore, as it relates specifically to the low back region and left hip region, there did not appear to be any findings worrisome for an acute pathological process.

The medical records document the employee received access to supervised physical therapy prior to the work injury of ___.

The employee was placed at MMI by a designated doctor on 05/11/05. Designation of MMI generally indicates that ongoing medical treatment would not be expected to change the employee's physical status. The records documented the employee was able to return to work activities by 10/04/04.

ACOEM Guidelines would support that it would be realistic to expect that an individual would be fully educated on a non-supervised rehabilitation regimen by 07/12/05. By that time, the employee had received access to supervised therapy services. Additionally, ***ACOEM Guidelines*** would not support that medical treatment in the form of ultrasound, massage therapy, or whirlpool would be considered medically necessary as these forms of treatment would be considered to be passive modalities. Such treatment would certainly not be expected to enhance additional functional capabilities, particularly when access was provided previously in the form of physical therapy.

Therefore, the items in dispute would not appear to be medically necessary as it relates directly to the work injury of The claimant received a thorough diagnostic assessment in the form of bilateral hip x-rays, left hip MRI, and a lumbar MRI, which did not reveal any findings worrisome for an acute pathologic process. Any injury sustained to the physical structure of the body as a result of the work injury of was limited to a soft tissue injury and would be supported by ***ACOEM Guidelines*** such medical treatment as referenced in the items in dispute would not be considered medically necessary.

The rationale for the opinion stated in this report is based on the above mentioned guidelines, the record review, as well as the broadly accepted literature to include numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician with IMED, Inc. is deemed to be a DWC decision and order.

YOUR RIGHT TO REQUEST A HEARING

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, 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 thirty (30) days after the date on which the decision that is the subject of the appeal is final and appealable.

I hereby verify that a copy of this Independent Review Organization's decision was sent to the DWC via facsimile or U.S. Postal Service this 25th day of September, 2006 from the office of IMED, Inc.

Sincerely,

Charles Brawner
Secretary/General Counsel