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

Requestors Name and Address: Nestor Martinez, D.C. 6660 Airline Drive Houston, Texas 77076	MDR Tracking No.: M5-06-1956-01 Claim No.: Injured Employee's Name:
Respondent's Name and Address: American Home Assurance Company Rep Box # 19	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 "The carrier has NOT responded to the RFR. Note: Our facility feels like this should NOT be docketed as an M5 b/c the carrier has used a peer review doctor that is NOT licensed in the state of Texas."

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: Per the Table of Disputed Services "unnecessary medical."

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)
07-21-05 to 08-19-05	99212 ($49.41 X 12 DOS)	☒ Yes ☐ No	$592.92
07-21-05 to 07-28-05 and 08-02-05 to 08-19-05	97110 (1 unit @ $35.86 X 4 units X 12 DOS)	☒ Yes ☐ No	$1,721.28
07-29-05	97110 (1 unit @ $35.86 X 2 units)	☒ Yes ☐ No	$71.72
07-21-05 to 08-19-05	97140 (1 unit @ $33.94 X 2 units X 13 DOS)	☒ Yes ☐ No	$882.44
07-21-05 to 08-19-05	97112 (1 unit @ $37.78 X 13 DOS)	☒ Yes ☐ No	$491.14
08-23-05 to 10-26-05	99212, 97110, 97140 and 97112	☐ Yes ☒ No	$0.00
	TOTAL DUE		$3,759.50

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

Date of service 07-19-05 was per Rule 133.308(e)(1) not timely filed and will therefore not be a part of the review.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 134.1 and 134.202(c)(1)
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 $3,759.50. 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:

		10-13-06
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.

MEDICAL REVIEW OF TEXAS

[IRO #5259]
10817 W. Hwy. 71 Austin, Texas 78735
Phone: 512-288-3300 FAX: 512-288-3356

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M5-06-1956-01
Name of Patient:	
Name of URA/Payer:	Nestor Martinez, DC
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Dean McMillan, MD

September 19, 2006

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on the Division of Workers' Compensation Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Division of Workers' Compensation

DOCUMENTS REVIEWED

- Notification of IRO Assignment
- Table of Disputed Services
- Chiropractic Reports, Nestor Martinez, DC.
- Multiple EOBs,
- Multiple HCFA Claim Forms, Pain and Recovery Clinic of North Houston
- Medical Reports, Dean McMillan, MD
- Medical Orthopedic Reports, Stephen Esses, MD
- Medical Pain Management Reports, Ihsan Shanti, MD, PhD
- Chiropractic Pain Management Reports, Dipti Patel, DC
- Electrodiagnostic Reports, W. Craig Brenan, DC / Innad Husaini, MD
- Lumbar MRI Report, K. Francis Lee, MD
- Independent Review / Arkansas Claims Management Summary & Notices
- Consilium MD, Review Report, Brad Hays, DC
- Consilium MD, Review Report, Victor Roth, MD
- Consilium MD, Review Report, Michael Hamby, DC
- Consilium MD, Review Report, Phillip Osborne, MD

- Work Hardening Psychosocial Assessment Report, Denise Turboff, M.Ed., LPC
- FCE Reports, Wayne Parks, DC
- RME Occupational Medicine Evaluation Report, Phillip Osborn, MD
- Impairment Rating/FCE Reports, Edgardo Martinez/Dean McMillan, MD
- Physical Therapy Notes, Daily Progress Notes, John Taylor, DC, Dipti Patel, DC, Nestor Martinez, DC

CLINICAL HISTORY

Based on materials provided for review, it appears that this patient reports an injury to her lower back, left hand, left foot and head as a result of a trip & fall over a pallet at her place of work on ___. She appears to have been seen initially on 06/07/05 by an ER physician (Tomball Regional Hospital) then subsequently by Drs. McMillan, Taylor, Martinez and Patel on 06/13/05 for conservative care at the Pain and Recovery Clinic in Houston, Texas. Initial x-rays are reported to be within normal limits. Dr. McMillan finds this patient to be experiencing lumbar radiculitis and orders medications and passive physical therapy. An MRI and MR Myelogram is performed 06/22/05 and found largely within normal limits. The patient is referred for pain management assessment with Dr. Shanti in 07/15/05 and is found with relatively uncomplicated low back pain. EMG study performed 07/28/05 suggests some early peripheral neuropathy with superimposed irritation of the right L5/S1 nerve roots with both acute and chronic changes. Chiropractic treatment and therapy notes suggest that the patient begins active physical therapy with Dr. Patel on 06/22/05 including therapeutic exercise, group therapeutic exercise, and neuromuscular reeducation with gymnic ball, myofascial release and joint mobilization. No VAS appears to be used concerning patient progress, however, subjective complaints are said to intermittently decrease, increase or stay the same through 07/15/05. These treatments continue with little documented progressive improvement through 10/26/05. The patient appears to have a psychosocial assessment performed on 12/27/05 and begins a work hardening program with Dr. Martinez through 06/02/06. Since active therapeutic exercise appears to have begun with Dr. Patel on 06/22/05, a reasonable and appropriate 8-week course would be considered medically necessary through 08/22/05.

REQUESTED SERVICE(S)

Office Visits (99212), therapeutic exercise (97110), manual therapy technique (97140), and neuromuscular reeducation (97112) for period in dispute (07/21/05 through 10/26/05).

DECISION

Approve Services (99212, 97110, 97140 and 97112) from 07/21/05 to 08/22/05.

Deny services (99212, 97110, 97140 and 97112) provided beyond 08/22/05.

RATIONALE/BASIS FOR DECISION

Per ACOEM and Official Disability Guidelines for low back conditions of this nature, some level of progressive objective or subjective improvement should be appropriately noted in order for continuation of treatment to be considered appropriate. Chiropractic daily treatment notes do not appear to reflect this. Without this documented progressive improvement, ongoing physical therapy modalities and chiropractic office visits (99212, 97110, 97140, and 97112) suggest no proven efficacy beyond 6-8 weeks duration. Since Dr. Patel began active therapy on 06/22/05, an appropriate 8-week course should not extend beyond 08/22/05.

Reference:

ACOEM Occupational Medicine Guidelines, Chapter 12 (low back complaints)

Official Disability Guidelines, 9th Ed. – 2004.

Philadelphia Panel Evidence-Based Clinical Practice Guidelines on Selected Rehabilitation Physical Therapy, Volume 81, Number 10, October 2001.

Hurwitz EL, et al. The effectiveness of physical modalities among patients with low back pain randomized to chiropractic care: Findings from the UCLA Low Back Pain Study. J Manipulative Physiol Ther 2002; 25(1):10-20.

Bigos S., et. al., AHCPR, Clinical Practice Guideline, Publication No. 95-0643, Public Health Service, December 1994.

Harris GR, Susman JL: "Managing musculoskeletal complaints with rehabilitation therapy" Journal of Family Practice, Dec, 2002.

Morton JE. Manipulation in the treatment of acute low back pain. J Man Manip Ther 1999; 7(4):182-189.

Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the 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.

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.

Chief Clerk of Proceedings
Division of Workers' Compensation
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell