



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 and Fee Dispute**

**PART I: GENERAL INFORMATION**

**Type of Requestor:** (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier

Requestor=s Name and Address:  Neuromuscular Institute of Texas – PA 9502 Computer Drive, Suite 100 San Antonio, TX 78229	MDR Tracking No.: M5-06-1978-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:  Box 42	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

**PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY**

Position summary states in part, "Treatments and therapies were consistent and within the scope of necessity, as seen by the treating doctor. Services provided were based on the injured employee's need and the doctor's professional judgment. Documents are being presented to substantiate health care provided to relieve the effects of the compensable injury, promote recovery and enhance the ability of the employees to return to or to retain employment."

Principle Documentation:

1. DWC-60/Table of Disputed Service
2. CMS-1500's
3. EOB's

**PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY**

Position summary states, "Harris and Harris represents \_\_\_\_\_ in this matter. Please direct all future correspondence regarding this Medical Dispute matter to the undersigned at Harris and Harris. Thank you for your consideration."

Principle Documentation:

1. DWC-60/Table of Disputed Service
2. CMS-1500's
3. EOB's.

**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)
7-25-05 – 9-23-05	99212-25, 97110-GP	<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.

Based on review of the disputed issues within the request, the Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by Medical Dispute Resolution.

On 8-22-06 the Medical Review Division submitted a Notice to Requestor to submit additional documentation necessary to support the charges and to challenge the reasons the Respondent had denied reimbursement within 14 days of the Requestor's receipt of the Notice.

CPT code 99455-VR on 10-10-05 was denied by the carrier as "131-claim specific negotiated discount." Several attempts to contact Robert Josey, the agent for the Respondent, to inquire as to whether or not there was a "negotiated discount" were not successful. The Requestor states that there is no "negotiated discount." The EOB shows that the Respondent has reimbursed the Requestor \$37.50 for these services. The Requestor states that he did receive this reimbursement. Recommend additional reimbursement of \$12.50 per Rule 134.202(e)(6)(F).

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 133.308, 134.1 and 134.202  
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 a refund of the paid IRO fee. The Division has determined that the Requestor is entitled to reimbursement for the services involved in this dispute in the amount of \$12.50. 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.

**Findings and Decision and Order by:**

	Medical Dispute Officer	10-27-06
_____ 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.**

September 7, 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 #: M5-06-1978-01**  
**DWC #: \_\_\_\_**  
**Injured Employee: \_\_\_\_**  
**Requestor: Neuromuscular Institute of Texas**  
**Respondent:**  
**MAXIMUS Case #: TW06-0128**

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 he stepped off the back of an ambulance injuring his left Achilles tendon. Diagnoses have included left ankle degenerative osteoarthritis, calcaneal spurs, and low back pain. Evaluation and treatment for this injury has included medications, and occupational and physical therapy including heat, stretching, ultrasound and mobilization.

## Requested Services

99212-office visit and 97110-therapeutic exercises from 7/25/05-9/23/05.

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

### *Documents Submitted by Requestor:*

1. The Neuromuscular Institute of Texas, PA Records and Correspondence – 10/23/03-8/24/06
2. Designated Doctor Evaluation by Susan Erredge, DPM – 1/5/03, 5/10/05
3. Independent Medical Evaluation – 8/4/04

### *Documents Submitted by Respondent:*

1. Independent Medical Review – 8/4/04
2. Peer Review Addendum – 2/23/04

## 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 suffered a sprained Achilles tendon and was treated conservatively for over 2½ years with no improvement overall. The MAXIMUS chiropractor consultant noted his pain level waxed and waned but he kept going to therapy with no resolution and not being able to work. The MAXIMUS chiropractor consultant explained most of the relief he got was from pain medications. The MAXIMUS chiropractor consultant also explained his physical therapy plan was changed a little every 12 visits. The MAXIMUS chiropractor consultant indicated that all of the therapy provided to the member from 7/25/05-9/23/05 could have been performed on his own at home without one-on-one supervision. The MAXIMUS chiropractor consultant noted he had been doing these exercises for 2 years and did not require supervision. The MAXIMUS chiropractor consultant explained that on 5/10/05, the designated doctor evaluation stated that the patient would not benefit from further physical therapy, work hardening or immobilization and that surgery to lengthen the tendon was needed. The MAXIMUS chiropractor consultant also indicated that if a patient does not show progress in ability, have less pain and return to some type of work, then care is no longer medically necessary. (American College of Occupational and Environmental Medicine (ACOEM), Official Disability Guidelines 10<sup>th</sup> edition. Mercy, Haldeman, 1993.)

Therefore, the MAXIMUS chiropractor consultant concluded that the 99212-office visit and 97110-therapeutic exercises from 7/25/05-9/23/05 were not medically necessary for treatment of the member's condition.

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Sincerely,  
**MAXIMUS**

Lisa Gebbie, MS, RN  
State Appeals Department