



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

PART I: GENERAL INFORMATION

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

Requestors Name and Address: Texas Health 5445 La Sierra Dr. #204 Dallas, Texas 75231	MDR Tracking No.: M5-06-2006-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Zurich American Insurance Company, Box 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary: "It is our position that SRS has established an unfair and unreasonable time frame in paying for the services that were medically necessary and rendered to the injured worker. Your help in resolving this case is appreciated."

Principle Documentation:

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

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary: "Copy of peer rev attached stating W/H not medically R&N."

Principle Documentation:

1. DWC-60/Table of Disputed Services/Position Summary
2. Peer Review

PART IV: SUMMARY OF DISPUTE AND FINDINGS - Medical Necessity Services

<u>Date(s) of Service</u>	<u>CPT Code(s) or Description</u>	<u>Medically Necessary?</u>	<u>Additional Amount Due (if any)</u>
8-04-05 – 08-26-05	97545-WH-CA, 97546-WH-CA	<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. No reimbursement recommended.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

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

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 reimbursement of the IRO fee and is not entitled to reimbursement for the services involved in this dispute.

Findings and Decision by:

Medical Dispute Officer

11-03-06

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.

INDEPENDENT REVIEW INCORPORATED

October 28, 2006

Re: MDR #: M5 06 2006 01 Injured Employee: ___
DWC #: ___ DOI: ___
IRO Cert. #: 5055 SS#: ___

TRANSMITTED VIA FAX TO:

TDI, Division of Workers' Compensation

Attention: ___

Medical Dispute Resolution

Fax: (512) 804-4868

RESPONDENT: American Home Assurance

REQUESTOR: Texas Health

TREATING DOCTOR: Anthony Esquibel, DC

In accordance with the requirement for DWC to randomly assign cases to IROs, DWC assigned this case to IRI for an independent review. IRI has performed an independent review of the medical records to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the office manager of Independent Review, 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 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 Independent Review Organization. Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a chiropractor with 14 years experience in work injuries and who is currently listed on the DWC Approved Doctor List.

This decision by Independent Review, Inc. is deemed to be a DWC decision and order.

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, 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.

Sincerely,
Jeff Cunningham, DC
Office Manager

INDEPENDENT REVIEW INCORPORATED

REVIEWER'S REPORT M5 06 2006 01

MEDICAL INFORMATION REVIEWED:

1. DWC Assignment
2. Carrier records
3. Requestor records
4. URA Records
5. Peer Review of Timothy Fahey, DC

BRIEF CLINICAL HISTORY:

This patient was injured on his job _____ and suffered a low back injury in _____. He initially went to Concentra, where a lumbar sprain/strain was diagnosed, then selected his own treating provider, apparently James Guess, MD. A MRI revealed stenosis bilateral at L4/5 from degeneration of the spine. The patient was treated with ESI therapy and medication due to a diagnosed radiculopathy, from James Guess, MD. Although the ESI therapy was ineffective, the patient proceeded to SI and facet injections. A second MRI was performed in December of 2003 and was similar in result, indicating DJD of the spine. It was in January of 2004 that the patient began treatment with Paul Eggert, DC. FCE was performed and was of high quality, but it demonstrated a lack of effort by the patient. Also, records indicate pain levels remaining very high all during treatment, about 7-9. Psychological records indicate an OSWESTRY score of 40, moderately high. This patient also had a history of sustained hypertension. Physical and pharmacological therapy continued until 10 sessions of work hardening were initiated from 8/4/05 to 8/26/05.

DISPUTED SERVICES:

Work hardening program, codes 97545 and 97546 from August 4, 2005 through August 26, 2005.

DECISION:

I AGREE WITH THE INSURANCE CARRIER'S PRIOR FINDING IN THIS CASE.

RATIONALE OR BASIS FOR DECISION:

It is difficult to understand why this patient was put into a work hardening program. The patient was clearly having psychological difficulties which magnified his symptoms. The

hypertension which was sustained should have been of great concern to the treating doctor on this particular case, due to the fact that the work hardening program requires maximum effort from the patient. This patient's VAS scores indicated perhaps some symptom magnification, as well, as the FCE results were questionable, even though the tests themselves were of high quality and integrity. There was no indication in this case for work hardening. It seems that the provider was taking a "last shot" approach to the case. It is, indeed, troubling that the patient was recommended for a chronic pain program 5 months before the beginning of work hardening. As a result of the severe inconsistencies in patient behavior as well as the basic physical and mental health condition of this patient, he was not and is not a candidate for work hardening.

SCREENING CRITERIA/STUDIES

TCA Guidelines to Quality Assurance, Mercy Center Guidelines