



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

Requestors Name and Address:
 Summit Rehabilitation Centers
 2420 E. Randol Mill Road
 Arlington, Texas 76011

MDR Tracking No.: M5-06-2109-01 (current MDR #)
 M5-06-1934-01 (former MDR #)

Claim No.:

Injured Employee's
 Name:

Respondent's Name and Address:
 Dallas National Insurance Company
 Rep Box # 20

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 "Necessary."

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: "Specifically, Carrier used Division-approved codes for its denial/reduction of reimbursement and Carrier used sufficient language in its denial to place Requestor on notice of the reasons for its denial/reduction."

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)
01-11-06, 02-23-06, 03-17-06 and 04-10-06	99213 (\$65.58 X 4 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$262.32
01-04-06 to 04-17-06	99213 (except for DOS listed above), 95831, 95851, 96004 and 99354	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
TOTAL DUE			\$262.32

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.

On 09-22-06 the Requestor submitted an updated Table of Disputed Services to DWC. This table will be used for the review by Medical Dispute Resolution.

On 10-13-06 the Requestor withdrew CPT codes 97140 and G0283 from the dispute, therefore, these codes will not be a part of the review.

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

CPT code 97116 (2 units) billed for date of service 03-20-06 was denied by the Respondent with denial code "50" (these are non-covered services because this is not deemed a medical necessity by the payer). The Requestor had obtained preauthorization prior to providing the services (preauthorization number 40542-IC). Per Rule 134.600(b)(1)(B) the Respondent is liable for all reasonable and necessary medical costs if "preauthorization of any health care listed in subsection (h) of this section was approved prior to providing the health care." Per Rule 133.301(a) the insurance carrier shall retrospectively review all complete medical bills and pay for or deny payment for medical benefits in accordance with the Act, rules, and ..." Reimbursement per Rule 134.202(c)(1) is recommended in the amount of **\$61.40 (\$30.70 X 2 units)**.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.301(a), 133.308, 134.1, 134.202(c)(1), 134.202(d)(2) and 134.600(b)(1)(B)
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 \$323.72. 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:

10-20-06

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.

MATUTECH, INC.

**PO Box 310069
New Braunfels, TX 78131
Phone: 800-929-9078
Fax: 800-570-9544**

**AMENDED
October 17, 2006**

October 9, 2006

Texas Department of Insurance
Division of Workers' Compensation
Fax: (512) 804-4001

Re: Medical Dispute Resolution
MDR#: M5-06-2109-01
DWC#: _____
Injured Employee: _____
DOI: _____
IRO Certificate No. IRO5317

Matutech, Inc. has performed an Independent review of the medical records of the above-named case to determine medical necessity. In performing this review, Matutech reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

Matutech certifies that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him the provider, 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 obtained from Jason Schmidt and Summit Rehab Centers. The Independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractics and is currently on the DWC Approved Doctor list.

Sincerely,

John Kasperbauer
Matutech, Inc.

REVIEWER'S REPORT

Information provided for review:

Request for Independent Review

Information provided by Jason Schmidt:

Therapy notes (01/04/06 – 04/11/06)

Information provided by Summit Rehab Centers:

Office notes (09/22/06)

DDE (06/14/06)

Therapy notes (01/04/06 – 04/17/06)

Clinical History:

This 27-year-old male employee of . was passing over a brick fence when he felt a pop in his right knee.

In December 2005, Marivel Subia, D.C., performed range of motion (ROM) and isometric muscle testing (IMT) which showed severe deficits in the right knee. The patient was on Aleve, Tylenol, and was applying ice to the affected area. Magnetic resonance imaging (MRI) of the right knee was positive for an evidence of a meniscus tear. Dr. Subia diagnosed derangement of medial meniscus and sprain of medial collateral ligament (MCL) of the right knee; neuralgia/neuritis; and radiculitis. From January 4, 2006, through April 17, 2006, the patient attended 27 sessions of physical therapy (PT) consisting of ice, electrical stimulation, gait training, manual therapy, and therapeutic exercises. Repeat ROM testing and IMT in January showed slow and steady progress of extension and significant improvement in flexion of the right knee. Dr. Subia recommended adjusting the treatment protocol as needed. ROM testing and IMT in April showed 35% improvement of flexibility and biomechanics and an overall improvement of 21% (baseline examination of the right knee). Deficits of functional strength persisted. The following was provided: A knee stabilization device, Biofreeze, and cryotherapy for home use.

On June 14, 2006, John Bourland, M.D., performed a designated doctor evaluation (DDE). The patient continued to have difficulty bending the right knee with swelling and popping. Following information was reviewed: *On January 26, 2006, Dr. Taba performed arthroscopic partial medial meniscectomy. In May 2006, a functional capacity evaluation (FCE) was ordered in which, the patient was found capable of doing light work. A work hardening program (WHP) was started. In June 2006, an FCE was repeated in which, the patient was found capable of working at the medium physical demand level (PDL). It was recommended that the patient continue the WHP.* Dr. Bourland felt that the patient had not reached maximum medical improvement (MMI) as he had three more weeks to complete his WHP.

On September 22, 2006, R. Todd Petersen, D.C., in a letter of dispute, stated that the patient had suffered a severe injury that had required a surgical intervention. His treatment was by all means was conservative. The standard of care is that a patient is to receive therapy after these types of injury. The dates of service in question were within the standard of care for the type of injury sustained. The patient underwent care within standards set forth by Official Disability Guidelines and was appropriate.

Disputed Services:

99213-OV, 95831-Muscle testing, 95851-ROM measures, 96004-physician review of muscle test, 97140-electrical stimulation, G0283-electrical stimulation, 97116-gait training, 99354-prolonged physical services (DOS 01/04/06 – 04/17/06)

Explanation of Findings:

Based on the records, the employee was stepping and experienced an episode of pain in his right knee and reported a work injury. MRI reported a posterior horn tear in the right knee. Dr. Subia provided pre- and post-surgical physical therapy. Pre-authorizations were provided in the records. A letter from the attorney representing the carrier reported that R.A. Buczek, DC, DO had reviewed the case and found the services in question to be unnecessary. As of 06/14/06, the designated doctor had not certified the employee was at maximum medical improvement. In the letter from Summit Rehab Centers, Dr. Petersen reports that office visits on a weekly basis for case management by the treating doctor is reasonable and supported by SOAH decisions 453-04-1979.M5 and 453-04-0046.M5. Dr. Petersen also reported that he was perplexed at the carrier's notion of unnecessary care especially after pre-authorization had been acquired. However, that was not entirely true. Dr. O' Kelley in the pre-authorization of 03/01/2006 specifically does NOT authorize CPT G0283 and CPT 97140.

Conclusion/Decision To Uphold, Overturn or Partially Uphold/Overturn denial:

Partial uphold

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:

In usual practice, the use of the E/M codes is appropriate for an initial examination, final examination, periodic re-examinations at 30 day intervals, and when the patient presents with a new condition or exacerbation requiring a separate examination over and above the usual pre and post service work based on Federal guidelines, the ACA coding guidance, the Chiro Code Desk Book, and other coding guidelines utilized by the chiropractic profession. There was no documentation of an exacerbation in this case. Office visits would be reasonable on 01/11/06, 02/23/06, 03/17/06, and 04/10/06.

All other treatments in dispute are denied. Range of motion and muscle testing would be reasonably considered to be part of the provider's re-examination during the office visit and should not be billed separately for higher reimbursement. Interpretation of that data would also be reasonably considered part of the evaluation and management services. Passive modalities are not established as reasonable and necessary for knee pain per ACOEM guidelines. Gait training is a bundled service and should not be separated for

higher reimbursement. The extended office visit was not adequately documented in the records to support the claim.

The physician providing this review is a Doctor of Chiropractic. The reviewer is certified by the National Board of Chiropractic Examiners. The reviewer has been in active practice for 22 years.

Matutech is forwarding this decision by mail and in the case of time sensitive matters by facsimile to the Texas Department of Insurance, Division of Workers Compensation.

Matutech retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by Matutech clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the Utilization Review Accreditation Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by Matutech represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to Matutech for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Matutech assumes no liability for the opinions of its contracted physicians and/or clinician advisors the health plan, organization or other party authorizing this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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.