



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

<b>Type of Requestor:</b> ( X ) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: Modern Medical Equipment P. O. Box 6582 McAllen, TX 78502	MDR Tracking No.: M5-06-2139-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Texas Mutual Insurance Company Box 54	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

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

Requestor's Position Summary: Requestor states: "It is our opinion that we have met guidelines and the equipment was delivered in good faith to the patient, therefore payment is expected."

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: Respondent did not submit a Position Summary to MDR.

Principle Documentation:

1. DWC 60/Table of Disputed Services
2. Explanation of Benefits

#### PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
11/08/05, 12/08/05 & 01/08/06	E0745-RR & A4556-RP and E0745-NU	<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.

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

28 Texas Administrative Code Sec. 133.308, and 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:

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.**

October 25, 2006

TX DEPT OF INS DIV OF WC  
AUSTIN, TX 78744-1609

CLAIMANT: \_\_\_

EMPLOYEE: \_\_\_

POLICY: M5-06-2139-01

CLIENT TRACKING NUMBER: M5-06-2139-01

---

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIOA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing 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.

**Records Received:**

Records from the State:

Notification of IRO Assignment, 9/20/06

Notice of receipt for request for Medical Dispute Resolution, 9/20/06

Medical Dispute Resolution Request/Response form, 8/14/06

List of Providers

List of providers with addresses

Blank Medical Dispute Resolution Request/Response form

Table of Disputed Services

Explanation of Benefits

Records from the Respondent:

Letter, La Treace Giles, RN, 9/29/06

Orthopedic evaluation, 10/4/05

Modern Medical Equipment, statement of medical necessity, 11/8/05

Review of Medical Equipment, Bruce Strach, DC, 11/10/05

Current Subjective Complaints form, 11/11/05

Office notes, 11/18/05, 12/16/05, 1/20/06

Operative report, 1/11/06

Report of Medical Evaluation form, 9/13/06

Impairment Rating Evaluation, 9/13/06

**Records from Requestor:**

Letter from Debra Marrs, Position Statement, 8/8/06

Medical Dispute Resolution Request/Response form, 8/14/06

List of Providers

Table of Disputed Services

Explanation of Benefits

Letter from Texas Mutual, 4/13/06

Request for Reconsideration, 4/5/06

Bills, 11/8/05, 12/8/05, 1/8/06

Initial Evaluation, Dr. Strach, with Range of Motion, Quadruple Visual Analogue scale and Oswestry

Disability Questionnaire, 10/26/05

Secondary Functional Back Evaluation, Dr. Strach, with Range of Motion, and Oswestry Disability

Questionnaire, 11/28/05

Review of Medical Equipment, Bruce Strach, DC, 11/10/05

Modern Medical Equipment Delivery Ticket, 11/11/05

Current Subjective Complaints form, 11/11/05

Electric Stimulation Units form, 11/11/05

Initial Consultation, Crosspoint Medical Clinic, 8/12/05

MRI lumbar spine report, 9/19/05

Nerve Conduction Studies, 11/21/05

Weekly Therapy Progress Notes, 11/7/05 – 11/11/05

Intermediate Functional Back Evaluation, 12/12/05

Letter from Bruce Strach, DC, 6/26/06

**Summary of Treatment/Case History:**

This is the case of a gentleman who was injured on the job sustaining low back injury with radiculopathy. Surgery was performed on 1/11/06 and physical therapy thereafter.

**Questions for Review:**

Dates of service in question: 11/8/05, 12/08/05, and 01/08/06

Items in Dispute: #E0745, #A4556, which were denied for medical necessity.

**Explanation of Findings:**

Although there is a great deal of clinical data provided substantiating the injury and its disabling affects, there is no clear documentation illustrating the medical necessity, effectiveness of the device to promote recovery, nor evidence that the device will enhance the patients ability to return to work.

There is no indication in the notes that the patient continues to receive any significant lasting objective benefit. There is no documentation of improved strength, endurance, or function that justifies continued care. There is no indication that the treatment cures or relieves the effects of injury, promotes recovery, or helps the individual return to, or retain, employment.

ACOEM Guidelines, Chapter 12, Page 15 state that EMS devices (among others) have no proven efficacy in treating acute low back pain.

It is for those reasons that the use of the device is deemed not medically necessary.

**Conclusion/Decision to Not Certify:**

Medical necessity is not established for the items in Dispute: #E0745, #A4556 on the dates in question, 11/8/05, 12/08/05, and 01/08/06.

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

Scientific Literature of the Medical Community.

**References Used in Support of Decision:**  
ACOEM Guidelines, Chapter 12, Page 15

-----

The chiropractor who provided this review has been issued a certificate by the state Board of Chiropractic Examiners. This reviewer has also received certification for Acupuncture. This reviewer is a fellow of the American Back Society. This reviewer is a member of the American Academy of Disability Evaluating Physicians and the Texas Chiropractic Association. This reviewer has been in active practice since 1986.

MRloA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, and the DWC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

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

The written opinions provided by MRloA 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 MRloA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America 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 agrees to hold MRloA harmless for any and all claims which may arise as a result of 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.

1259768.1

Case Analyst: Valerie O ext 554