**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

| | |
|---|---|
| Requestor=s Name and Address:<br>Rehab 2112<br>P.O. Box 671342<br>Dallas, TX 75267-1342 | MDR Tracking No.: M5-06-2166-01<br>Claim No.:<br>Injured Employee's Name: |
| Respondent's Name and Address:<br>Texas Mutual Insurance Company<br>Carrier Rep Box # 54 | Date of Injury:<br>Employer's Name:<br>Insurance Carrier's No.: 99F0000412970 |

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

Requestor's Position Summary: Per Requestors Table of Disputed Services: "Services were medically necessary"
Principle Documentation:

1. DWC 60
2. CMS 1500's
3. Explanation of Benefits

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

Respondent's Position Summary: The position statement submitted by Texas Mutual does not address the disputed services.
Principle Documentation:

1. Response to DWC 60
2.

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

| Date(s) of Service | CPT Code(s) or Description | Medically Necessary? | Additional Amount Due (if any) |
|---|---|---|---|
| 09/02/05 – 09/15/05 | 97110-GP | ☐ Yes ☒ 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, and134.1
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**

| Authorized Signature | Typed Name | Date of Findings and Decision |
|---|---|---|
| | | 10-31-06 |

**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.**

**IRO Medical Dispute Resolution M5 Retrospective Medical Necessity**
**IRO Decision Notification Letter**

| | |
|---|---|
| **Date:** | **10/24/2006** |
| **Injured Employee:** | |
| **MDR #:** | **M5-06-2166-01** |
| **DWC #:** | |
| **MCMC Certification #:** | **TDI IRO-5294** |

**REQUESTED SERVICES:**
Please review items in dispute: 97110-Therapeutic Exercises

Dates of service in dispute: 09/02/2005 through 09/15/2005.

**DECISION: Upheld**

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IRO MCMCllc (MCMC) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO) to render a recommendation regarding the medical necessity of the above disputed service.

**Please be advised that a MCMC Physician Advisor has determined that your request for an M5 Retrospective Medical Dispute Resolution on 10/24/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:**

The medical necessity and/or appropriateness for the application of the therapeutic exercises as represented in the documentation from 09/02/2005 through 09/15/2005 are not established.

**CLINICAL HISTORY:**
Records indicate that the above captioned individual, a 52-year-old male, was allegedly injured during the course of his normal employment on 05/10/2005. The history reveals that he was lifting some lumber and slipped and fell. The injured individual initially received treatment under the administration of the company doctor. He was treated from 05/11/2005 through 06/17/2005 at which time was released from care with no restrictions. The injured individual then presented for treatment under the administration of the current attending physician (AP) on 06/27/2005. An MRI was performed on 07/01/2005, which revealed postural changes as well as disc desiccation at L5. The injured individual was treated with an exhaustive course of therapeutic exercises then treated with a course of work hardening. Serial Functional Capacity Exam (FCE) examinations were performed.

**REFERENCES:**
References utilized in this review may include but are not limited to the ACEOM Guidelines, Official Disability Guidelines, Health Care Guidelines by Milliman and Robertson Volume 7, North American Spine Society Guidelines, Texas Medical Fee Guidelines, and Procedural Utilization Guidelines.

**RATIONALE:**
The documentation fails to establish the rationale for the application of the documented course of therapeutic exercises during the above captioned dates of service. Firstly, the injured individual had initially completed a course of care under the administration of presumably, the company doctor. As of 06/17/2005, the injured individual was apparently reporting no low back pain and demonstrated full ranges of motion. The injured individual was then released to full duties at work. However, on 06/27/2005 the injured individual presented to the office of the current attending physician (AP) with restricted ranges of motion and pain levels of 4/10. The documentation reveals no provocative incident or exacerbatory event that would explain the apparent degradation of symptoms or the need for an additional course of care after the completion of the initial course of care.

Secondly, the injured individual presented to the office of the AP on 06/27/2005 with non-complicated soft tissue injuries to the low back. There are no indications that any complicating factors or co-morbidities were present that would necessitate an aggressive or intensive course of care. The course of care represented from 09/02/2005 through 09/15/2005 is intensive and exhaustive, utilizing as many as eight units of therapy for a uncomplicated injury to one body area. The choice of the intensity of therapy is not commensurate with the presenting symptoms and mechanism of injury. The utilization of 7-8 separate units of therapeutic exercises would typically be utilized for complicated injuries to multiple areas of the body. The course of care represented in the documentation is simply not commensurate with the reasonably expected course of care for the documented condition.

In light of the arguments raised in the above discussion, the medical necessity of the course of therapeutic exercises from 09/02/2005 through 09/15/2005 is not established.

**DATES RECORDS RECEIVED:**
Medicals received 09/27/2006.

**RECORDS REVIEWED**
Notification of IRO Assignment dated 09/19/06
MR-117 dated 09/19/06
DWC-60
DWC-69: Reports of Medical Evaluation dated 08/29/05, 01/10/06, 11/03/05
MCMC: IRO Medical Dispute Resolution M5 Retrospective Medical Necessity dated 09/27/06
MCMC: IRO Acknowledgment and Invoice Notification Letter dated 09/18/06
MCMC: Statement dated 09/20/06
Texas Mutual: Letter dated 10/04/06 from LaTreace Giles, RN
Rehab: Check dated 09/25/06
MDR Request dated 06/29/06
Letter of Medical Necessity (AR) dated 01/24/06 from Gerri Souder, D.C.
Marcus S. Villarreal, M.D.: Designated Doctor Evaluation dated 01/10/06
Focus: Impairment rating report dated 11/07/05 from Tony Bennett, D.C.
Report of Medical Evaluation from Tony Bennett, D.C. dated 11/07/05
Consultative Exam and Impairment Rating (handwritten) dated 11/02/05
Rehab: Referral Forms dated 10/31/05, 08/31/05, 08/19/05 (Rehabilitation Services in middle of form)
Focus: Final FCE dated 10/18/05 from Michelle Ivey, D.C.
Rehab: Psychology Group Notes dated 10/12/05, 10/05/05, 09/28/05, 09/21/05 from Kenneth Wise, Psy.D.
Case Management Summaries dated 10/19/05, 10/12/05, 10/05/05, 09/28/05, 09/21/05
Functional Capacity Evaluation Informed Consents signed 10/18/05, 10/11/05, 09/16/05, 08/22/05

Focus: Interim FCEs dated 10/11/05, 09/16/05 from Michelle Ivey, D.C.
Rehab: Impairment Rating/FCE-PPE Billing Forms dated 10/11/05, 08/22/05
Visit Log Reports dated 09/19/05 through 10/18/05
Critical Item Questionnaires signed by provider 09/28/05, 08/22/05
Rehab: Program Daily Notes dated 09/19/05 through 10/18/05
Rehab: Program Policies signed 09/19/05
Kenneth Wise, Psy.D.: Form letter dated 09/12/05
Correction Sheets dated 09/09/05, 08/03/05
Health Insurance Claim Forms dated 09/07/05 through 09/19/05
Texas Mutual: Explanation of Benefits for DOS 09/02/05 through 09/15/05
Active Rehab Exercise/Fee Slips dated 09/02 through 09/15
Rehab: Daily Therapy Notes dated 09/02/05 through 09/16/05
Rehab: Job Description Request with request dates of 08/23/05, 09/13/05, 09/20/05
Focus: Initial FCE dated 08/22/05 from Michelle Ivey, D.C.
Stress and Lifestyle-Change Surveys dated 08/22/05, 09/12/05
Handwritten Notes dated 08/22/05 through 12/21/05
Injury Impact Questionnaires dated 08/22/05 and two undated
Rehab: Acknowledgment of Receipt of Notice dated 08/22/05
Rehab: Fee Schedule signed 08/22/05
Authorization and Assignment of Cause of Action signed 08/22/05
Rehab: Notice of TWCC Compensability dated 08/19/05
Patient information sheet dated 08/19/05
Statement signed 08/02/05 with heading "Do you need transportation to and from our facility"
Accident & Injury Chiropractic: Initial Report dated 07/07/05 from Chris Turner, D.C.
Open Air MRI: MRI lumbar spine dated 07/01/05
Accident and Injury Chiropractic: Attending Doctor's Recommendations dated 07/01/05
One Radiology: Lumbar spine radiographs dated 06/30/05
Internal Radiographic Report dated 06/30/05
Office notes dated 06/28/05 through 09/10/05 ("New Trauma" at top)
Accident & Injury Pain Centers: Authorization for the use or disclosure of Protected Health Care Information dated 06/27/05
Lone Star Radiology: Assignment/Authorization dated 06/27/05
Fee Schedule dated 06/27/05
North Texas Open Air MRI Fee Schedule dated 06/27/05
Authorization and Assignment of Benefits and Cause of Action dated 06/27/05
Historia Personal dated 06/27/05
Informed Consent signed 06/27/05
Internal Radiographic Report dated 06/27/05
Concentra Medical Centers: Transcription notes dated 06/17/05, 06/10/05, 05/31/05, 05/11/05 from Coy Foster, M.D.
Neurological Examination notes dated 06/17/05, 06/11/05, 05/10/05
Horizon Las Colinas: MRI lumbar spine dated 06/09/05
Concentra Medical Centers: Transcription note dated 06/07/05 from Silvana Smith, PA-C
Concentra Medical Centers: Transcription note dated 05/13/05 from Locum Rainwater, M.D.
Undated Abbreviation List
Undated Patient Responsibilities sheet
Rehab: Undated Patients Rights and Responsibilities
Undated Patient's Complaints for Investigation and Resolution of any Allegations
Rehab: Undated Patient Resource List
Rehab: Undated Work Program sheet
Rehab: Undated Patient Release Worksheet
Undated Summary of Maximal Physical Job Demands
Undated Patient Orientation and Education Checklist
Accident & Injury Chiropractic: Procedure Outline-Other than MVC
Rehab: Undated Work Program Participant Intake Sheet
Undated form with "Lets Get Work Simin" at top
Undated Physical Examination, Consultative Exam, Current Medical Problem, Medical History
Undated Forms with "Referring Physician" and "Personal/Social History" at top
Undated form with "Work/Employment" information at top
Statement for the period 08/05 to 08/31
Undated Past Medical History (Cuestionario at top)
Accident & Injury Chiropractic: Perspectivea De Satsfaccion Del Paciente dated ??/25/05

**The reviewing provider is a Licensed/Boarded Chiropractor and certifies that no known conflict of interest exists between the reviewing Chiropractor 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 prior to referral to the IRO. The reviewing physician is on DWC's Approved Doctor List.**

**This decision by MCMC is deemed to be a Division decision and order (133.308(p) (5).**

**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. 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.

**In accordance with Division rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of DWC on this**

**24th day of October 2006.**

**Signature of IRO Employee: _____**

**Printed Name of IRO Employee:_____**

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