



## MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

### Retrospective Medical Necessity

#### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> ( X ) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: Dr. Suhail Al-Sahli 1210 Nasa Road 1, Suite A Houston, Texas 77058	MDR Tracking No.: M5-07-0059-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name:  Box #: 42	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

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

Requestor's Position Summary: "This letter is to inform you that we are filing a Medical Dispute on ... requesting payment from the Insurance Carrier for the total amount of \$1,566.38 for the period AUGUST 8, 2005 – MARCH 28, 2005. We have appealed to collect these charges from the insurance carrier, but the carrier has failed to provide us with proper explanation for not paying for these services. Also, manipulation was provided to help the patient's condition."

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: "It is the position of the carrier that the respondent has been reimbursed for reasonable, necessary and related medical treatment for this work injury."

Principle Documentation:

1. Response to DWC

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
09-14-05 to 03-28-06	99213, 98941, 97124, 97112 and 97032	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$00.00
09-29-05 & 10-17-05	98943	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Reimbursement per Rule 134.202(c)(6)
09-29-05 to 03-28-06	98940-25 (1 unit @ \$32.84 x 7 DOS)(see note below)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$229.88
	<b>NOTE:</b> The Requestor billed less than MAR; therefore, reimbursement is recommended per Rule 134.202(d)(2)		
	<b>TOTAL DUE</b>		\$229.88 and reimbursement per Rule 134.202(c)(6)

**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.

Per Rule 133.308(e)(1) dates of service 08-08-05 through 08-29-05 were untimely filed with the Division and will not be a part of the review.

The services in dispute were billed in Harris County, Texas.

Reimbursement for CPT code 98943 is recommended per Rule 134.202(c)(6) of the MFG which requires carriers to "assign a relative value, which may be based on nationally recognized published relative value studies, published (DWC) medical dispute decisions, and values assigned for services involving similar work and resource commitments." An amount assigned by the carrier that is consistent with the requirements of this rule is the MAR.

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

28 Texas Administrative Code Sec. §133.308 and §134.202  
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 \$229.88 plus the amount per Rule 134.202(c)(6). 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.

Findings and Order by:

05-31-07

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Dispute Resolution Officer

\_\_\_\_\_  
Date of Findings and 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.**

November 6, 2006

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

CLAIMANT: \_\_\_  
EMPLOYEE: \_\_\_  
POLICY: M5 07-0059-01

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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 received from the state:

Notification of IRO assignment dated 10/17/06 4 pages  
Table of Disputed services dated 8/8/05-9/28/06 3 pages  
List of doctors who have examined the patient undated 1 page  
TWCC-62 EOB's dated 9/14/05-3-28-06 7 pages  
Medical dispute resolution request dated 9/18/06 1 page

Records from the Requestor:

Re-evaluation note dated 8/8/05 1 page  
Dales notes dated 8/8/05-3/28/06 9 pages  
Letter from Dr. Al-Sahli dated 10/24/06 2 pages

Records from the Respondent:

Letter of medical necessity undated 1 page  
Denial letter undated 1 page  
Employers first report of injury dated 8/12/02 1 page  
EOB dated 9/11/06 1 page  
Indications for Chronic Pain Management dated 8/17/02 1 page  
Daily notes (NBC Healthcare) dated 8/7/02 - 8/23/02 12 pages  
Follow up note (Texas pain Solutions) dated 8/23/02 1 page  
Daily notes (NBC Healthcare) dated 8/26/02 1 page

Radiology report dated 9/4/02 1 page  
Daily notes (NBC Healthcare) dated 9/6/02–9/9/02 2 pages  
MRI results dated 9/12/02 2 pages  
Daily notes 9/13/02–9/20/02 4 pages  
Follow up notes (Texas Pain Solutions) dated 9/20/02 1 page  
Daily notes (NBC Healthcare) dated 9/23/02–10/4/02 6 pages  
Follow up note (Texas Pain Solutions) dated 10/4/02 1 page  
Daily notes (NBC Healthcare) dated 10/7/02–10/16/02 5 pages  
Peer review dated 10/16/02 2 pages  
Daily notes (NBC Healthcare) dated 10/18/02–11/1/02 8 pages  
Follow up note (Texas pain solutions) dated 11/1/02 1 page  
Procedure report undated 1 page  
Daily notes (NBC Healthcare) dated 11/4/02–11/13/02 4 pages  
Peer Review dated 12/2/02 2 pages  
Initial office consult dated 12/20/02 2 pages  
Letter of medical necessity dated 12/20/02 1 page  
Daily notes (NBC Healthcare) dated 1/9/03–1/10/03 2 pages  
Work status report dated 1/13/03 1 page  
Daily notes (NBC Healthcare) dated 1/13/03 1 page  
Email from Stacy Davis dated 1/17/03 1 page  
Iceman literature 1 page  
Daily notes (NBC Healthcare) dated 1/29/03–2/3/03 3 pages  
Progress note dated 6/13/03 1 page  
Dallas pain questionnaire undated 3 pages  
Functional abilities evaluation dated 8/7/02 18 pages  
Letter from Leena Sheth OTR dated 7/28/03 2 pages  
Work Hardening Weekly Team Conference dated 7/30/03 1 page  
Work Hardening Psychotherapy Group dated 7/23/03 1 page  
Work Hardening Weekly Team Conference dated 8/6/03 1 page  
Work Hardening Psychotherapy Group dated 8/1/03 1 page  
Work Hardening Weekly Team Conference dated 8/13/03 1 page  
Work Hardening Psychotherapy Group dated 8/6/03 1 page  
Work Hardening Weekly Team Conference dated 8/20/03 1 page  
Work Hardening Psychotherapy Group dated 8/13/03–8/20/03 2 pages  
Work Hardening Weekly Team Conference dated 8/27/03 1 page  
Work Hardening Psychotherapy Group dated 8/27/03 1 page  
Work Hardening Weekly Team Conference dated 9/3/03 1 page  
Patient history and physical dated 9/5/03 2 pages  
Operative procedure report dated 9/12/03 1 page  
Office note dated 9/19/03 2 pages  
Office note dated 10/24/03 2 pages  
Medical record review dated 10/30/03 3 pages  
Biofeedback note dated 11/4/03 1 page  
Psychotherapy group note dated 11/4/03 2 pages  
Daily progress notes dated 11/4/03 1 page  
Individual psychotherapy note dated 11/5/03 1 page  
Psychotherapy group note dated 11/5/03 2 pages  
Pain management progress note dated 11/5/03 1 page  
Biofeedback note dated 11/6/03 1 page  
Psychotherapy group note dated 11/6/03 2 pages  
Pain management progress note dated 11/6/03 1 page  
Office note dated 11/7/03 2 pages  
Individual psychotherapy note dated 11/7/03 1 page  
Psychotherapy group note dated 11/7/03 2 pages

Pain management daily progress notes dated 11/7/03 1 page  
Psychotherapy group note dated 11/10/03 2 pages  
Pain management progress note dated 11/10/03 1 page  
Individual psychotherapy note dated 11/10/03 2 pages  
Pain management progress note dated 11/11/03 1 page  
Biofeedback note dated 11/11/03 1 page  
Psychotherapy group note dated 11/11/03 2 pages  
Weekly team conference notes dated 11/12/03 1 page  
Pre-authorization from dated 11/12/03 1 page  
Pain management progress note dated 11/12/03 1 page  
Psychotherapy group note dated 11/12/03 2 pages  
Individual psychotherapy note dated 11/12/03 1 page  
Biofeedback note dated 11/13/03 1 page  
Psychotherapy group note dated 11/13/03 2 pages  
Biofeedback note dated 11/17/03 1 page  
Psychotherapy group note dated 11/17/03 2 pages  
Treatment summary dated 11/18/03 3 pages  
Fax cover sheet dated 11/18/03 1 page  
Biofeedback note dated 11/18/03 1 page  
Psychotherapy group note dated 11/18/03 2 pages  
Daily notes dated 11/21/03 1 page  
Email from Stacy Davis dated 12/1/03 1 page  
Email from Stacy Davis dated 12/4/03 1 page  
Biofeedback note dated 12/4/03 1 page  
Psychotherapy group note dated 12/4/03 2 pages  
Individual psychotherapy note dated 12/5/03 1 page  
Psychotherapy group note dated 12/5/03-12/8/03 3 pages  
Biofeedback note dated 12/8/03 1 page  
Psychotherapy note dated 12/8/03 1 page  
Individual psychotherapy note dated 12/9/03 1 page  
Psychotherapy group note dated 12/9/03 2 pages  
Biofeedback note dated 12/10/03 1 page  
Psychotherapy group note dated 12/10/03 2 pages  
Individual psychotherapy note dated 12/11/03 1 page  
Psychotherapy group note dated 12/11/03 2 pages  
Biofeedback dated 12/12/03 1 page  
Psychotherapy group note dated 12/12/03 2 pages  
Biofeedback note dated 12/15/03 1 page  
Psychotherapy group note dated 12/15/03 2 pages  
Biofeedback note dated 12/16/03 1 page  
Psychotherapy group note dated 12/16/03 2 pages  
Psychotherapy group note dated 12/18/03 2 pages  
Individual psychotherapy note dated 12/18/03 1 page  
Treatment Summary dated 12/18/03 3 pages  
TWCC-69 report of medical evaluation dated 12/22/03  
Letter from Dr. Sanders dated 12/22/03 4 pages  
Literature 6 pages  
Daily notes dated 2/13/04-3/17/04 7 pages  
IRO analysis report dated 5/17/04 1 page  
Notice of independent review decision dated 7/2/04 2 pages  
Office notes dated 7/9/04 2 pages  
Daily notes dated 8/6/04-9/7/04 4 pages  
Office note dated 9/10/04 2 pages  
Daily notes dated 9/10/04-9/24/04 4 pages

Office note dated 9/24/04 2 pages  
Daily notes dated 9/28/04–10/20/04 5 pages  
Office note dated 10/22/04 2 pages  
Daily notes dated 10/22/04–11/2/04 4 pages  
Letter from Medical Dispute office dated 11/4/04 1 page  
TWCC findings and decision dated 11/5/04 2 pages  
Daily notes dated 11/05/04–12/6/04 8 pages  
Office note dated 12/10/04 2 pages  
Daily notes dated 12/14/04–12/22/04 2 pages  
Medical record review dated 12/22/04 4 pages  
Daily notes dated 12/30/04–2/3/05 6 pages  
Letter from Dr. Obermiller dated 2/8/05 2 pages  
Daily notes dated 2/14/05–10/17/05 22 pages  
Letter from Dr. Al-Sahli dated 8/17/06 2 pages

### **Summary of Treatment/Case History:**

Patient is a 66-year-old female school custodian who, on \_\_\_\_, slipped and fell on a floor stripper and injured her left shoulder, left elbow and lower back. She initiated care that same day with a doctor of chiropractic who has managed her care since that time, and has consisted of chiropractic manipulative treatment, physical therapy, rehabilitation, medications and injections. An MRI of the left shoulder was first performed on 9/4/02 and was read completely normal, however another scan performed on 9/12/02 demonstrated a “complete tear of the supraspinatus tendon.” Despite the conservative trial, the patient underwent left shoulder and elbow surgical repair on 4/2/03, followed by post-operative physical therapy, rehabilitation, and even work hardening, but her fears of reinjury prevented her from completing the program. She then entered a chronic pain management program. On 12/22/03, she was seen by a designated doctor who opined that she was at clinical MMI, and awarded 15% whole-person impairment.

### **Questions for Review:**

Disputed Services: #99213–OV, #98943–Chiropractic manual treatment, #97032–Elec. Stimulation, #97112–Neuromuscular reeducation, #98941–Chiropractic manual treatment, #98940–Chiropractic manual treatment spinal, #97124–Massage  
DOS 9/14/05–3/28/06

### **Explanation of Findings:**

The chiropractic manipulations, extraspinal (#98943) and the chiropractic manipulations, 1–2 areas (#98940) are approved; all remaining services and procedures are denied.

In this case, the medical records adequately demonstrated that a compensable injury occurred to the claimant’s left upper extremity and lower back, that she eventually underwent surgical repair to her left shoulder and elbow, and that she was eventually awarded a 15% whole-person impairment by a designated doctor, whose opinion bears presumptive weight. Therefore, the performance of periodic manipulations to cure and/or relieve the affects from the injury fulfilled the statutory requirements for medical necessity.

However, in terms of the 3–4 area chiropractic manipulations (#98941), the diagnosis in this case only pertained to the left upper extremity and the lumbar spine. And, the medical records were devoid of any support for performing manipulations beyond the lumbar spine. Therefore, these manipulative procedures were unsupported as medically necessary.

Furthermore, with respect to the level III office visits #(99213), nothing in either the diagnosis or the medical records supported the medical necessity of performing an extended problem-focused Evaluation and Management (E/M) service on each and every patient encounter, according to the definition of this service under CPT. Besides, the pre-, intra- and post-service work involved in the documented patient encounters were already accounted for—and a component of—the aforementioned chiropractic manipulative therapy (CMT) service.

With respect to the neuromuscular reeducation (#97112), there was nothing in either the diagnosis or the physical examination findings on this patient that demonstrated the type of neuropathology that would necessitate the application of this service. According to a Medicare Medical Policy Bulletin, "This therapeutic procedure is provided to improve balance, coordination, kinesthetic sense, posture, motor skill, and proprioception. Neuromuscular reeducation may be reasonable and necessary for impairments which affect the body's neuromuscular system (e.g., poor static or dynamic sitting/standing balance, loss of gross and fine motor coordination, hypo/hypertonicity). The documentation in the medical records must clearly identify the need for these treatments." In this case, the documentation failed to fulfill these requirements, rendering the performance of this service medically unnecessary.

Insofar as the attended electrical stimulation (#97032) and the massage (#97124) were concerned, the medical records in this case failed to document that these therapies were efficacious. In fact, patient encounter after patient encounter documented that the patient was "the same as last visit" (date of service 10/17/05), and that it was the treating doctor's clinical assessment that "the patient is feeling about the same" (date of service 9/29/05). In fact, the medical records submitted overall were devoid of any objective measurement of efficaciousness of care. Furthermore, the *Guidelines for Chiropractic Quality Assurance and Practice Parameters* Chapter 8 under "Failure to Meet Treatment/Care Objectives" states, "After a maximum of two trial therapy series of manual procedures lasting up to two weeks each (four weeks total) without significant documented improvement, manual procedures may no longer be appropriate and alternative care should be considered." Obviously, the dates in dispute are way beyond this specified time frame.

And finally, upon review of the treating doctor's statement of position letter (dated 10/24/06), he provided as his number one reason why he should prevail in this case was because the World Chiropractic Association (WCA) believed the Mercy Conference Guidelines Document should be rejected. However, the American Chiropractic Association (ACA) – passed a formal Resolution in 2004, that states "RESOLVED, it is the view and position of the American Chiropractic Association that the WCA has significant and unacceptable conflicts of interest within its un-elected leadership, does not qualify as a representative membership association and does not have sufficient "membership" to warrant consideration as a national or international decision-maker or representative voice for the chiropractic profession."

#### References Used in Support of Decision:

Texas Labor Code 408.021

*CPT 2004: Physician's Current Procedural Terminology, Fourth Edition, Revised.* (American Medical Association, Chicago, IL 1999),

HGSA Medicare Medical Policy Bulletin, Physical Therapy Rehabilitation Services, original policy effective date 04/01/1993 (Y-1B)

Haldeman, S; Chapman-Smith, D; Petersen, D *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Aspen Publishers, Inc.

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This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has given numerous presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty years.

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.

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The written opinions provided by MRIOA 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 MRIOA 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 MRIOA 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.

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Case Analyst: Raquel G ext 518