**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 Dispute

**PART I: GENERAL INFORMATION**

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

| | |
|---|---|
| Requestor's Name and Address:<br>Santiago Guajardo, D.C.<br>3303 W. FM 1960 Suite 360<br>Houston, Texas 77068 | MDR Tracking No.: M5-07-0102-01<br>Claim No.:<br>Injured Employee's Name: |
| Respondent's Name and Address:<br>Indemnity Insurance Company<br>Rep Box # 15 | Date of Injury:<br>Employer's Name:<br>Insurance Carrier's No.: |

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

Requestor's Position Summary: Per the Table of Disputed Services "FCE not noted in RME report. Patient entitled to FCE's under the TWCC 2003 MFG Rule 134.202."

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: No position summary was submitted to DWC by the Respondent.

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) |
|---|---|---|---|
| 11-11-05 | 97750-FC (1 unit @ $38.25 X 20 units) | ☒ Yes ☐ No | $765.00 |
| | **TOTAL DUE** | | $765.00 |

**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 prevail** on the disputed medical necessity issues.

Note: The Respondent also denied the service listed above with denial code "29" (time limit expired for filing). House Bill (HB) 7 (79th Legislature, Regular Session, 2005) made several changes to the prompt pay provisions in the Texas Labor code. One of these changes was the addition of language to Section 408.027(a) of the Act, which requires health care providers to submit medical bills to the insurance carrier no later than 95 days after the date the services are provided to the injured employee. Review of the CMS 1500 submitted by the Requestor revealed that the Requestor had submitted the medical bill to the Respondent within the 95 day time limit required for submission.

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

28 Texas Administrative Code Sec. 133.308, 134.1 and 134.202(c)(1)
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 $765.00. In addition, the Division finds that the Requestor was the prevailing party and is entitled to a refund of the IRO fee in the amount of $460.00. 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:**

| | | 12-08-06 |
|---|---|---|
| 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.**

November 21, 2006

**ATTN:** **Program Administrator**
Texas Department of Insurance/Workers Compensation Division
7551 Metro Center Drive, Suite 100
Austin, TX 78744
Delivered by fax: 512.804.4868

# Notice of Determination

MDR TRACKING NUMBER: M5-07-0102-01
RE: Independent review for ___

The independent review for the patient named above has been completed.

- Parker Healthcare Management received notification of independent review on 10.23.06.
- Faxed request for provider records made on 10.23.06.
- The case was assigned to a reviewer on 11.10.06.
- The reviewer rendered a determination on 11.21.06.
- The Notice of Determination was sent on 11.21.06.

The findings of the independent review are as follows:

## Questions for Review

Medical necessity of CPT code 97750 FC, functional capacity testing. The date of service is listed as 11.11.05.

## Determination

PHMO, Inc. has performed an independent review of the proposed care to determine if the adverse determination was appropriate. After review of all medical records received from both parties involved, the PHMO, Inc. physician reviewer has determined to **overturn the denial** on the denied service(s).

## Summary of Clinical History

The claimants sustained a work related injury on the date of ___. The claimant was involved in a work related MVA. Injuries were sustained to the head and neck.

## Clinical Rationale

The claimant had a compensable work related injury. The claimant was off of work. In order to truly determine if a patient has the ability to safely to work and if they can perform at their job in a satisfactory fashion, an FCE must be conducted. This type of study is considered standard for injured workers that cannot return to work so that outcome assessments can be generated, baseline function can be determined and necessity for various rehabilitative services can be established. It was clearly a necessary and logical test based upon the circumstances of the case and the documented medical findings.

## Clinical Criteria, Utilization Guidelines or other material referenced

- *Occupational Medicine Practice Guidelines*, Second Edition.
- *The Medical Disability Advisor*, Presley Reed MD
- *A Doctors Guide to Record Keeping*, Utilization Management and Review, Gregg Fisher

The reviewer for this case is a doctor of chiropractic peer matched with the provider that rendered the care in dispute. The reviewer is engaged in the practice of chiropractic on a full-time basis.

The review was performed in accordance with Texas Insurance Code 21.58C and the rules of Texas Department of Insurance /Division of Workers' Compensation. In accordance with the act and the rules, the review is listed on the DWC's list of approved providers or has a temporary exemption. The review includes the determination and the clinical rationale to support the determination. Specific utilization review criteria or other treatment guidelines used in this review are referenced.

The reviewer signed a certification attesting that no known conflicts-of-interest exist between the reviewer and the treating and/or referring 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 IRO.
The reviewer also attests that the review was performed without any bias for or against the patient, carrier, or other parties associated with 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.

I hereby verify that a copy of this Findings and Decision was faxed to Texas Department of Insurance /Division of Workers Compensation applicable to Commission Rule 102.5 this 21st day of November, 2006. The Division of Workers Compensation will forward the determination to all parties involved in the case including the requestor, respondent and the injured worker.

_____

Meredith Thomas
Administrator
Parker Healthcare Management Organization, Inc.