



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:
Nestor Martinez, D.C.
6660 Airline Dr.
Houston, TX 77076

MDR Tracking No.: M5-07-0118-01
Previous MDR No.: M4-06-6736-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

Zurich American Ins Company, Box # 19

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position summary states, "Attached herewith are two copies of the DWC-60 and documentation in accordance with DWC Rules 133.307 and 133.308. The remainder of the documents will be forwarded to DWC and/or IRO upon notice."

Principle Documentation:

1. DWC-60/Table of Disputed Service
2. CMS-1500's
3. EOB's

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position summary states, "The carrier also questions whether all services provided were medically necessary and reasonable... The requestor has failed to submit sufficient documentation to support the necessity of unusually long treatment sessions."

Principle Documentation:

1. DWC-60/Table of Disputed Service

PART IV: SUMMARY OF DISPUTE AND FINDINGS - Medical Necessity Services

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
11-02-05 – 11-21-05	97140 (\$33.94 x 9 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$305.46
10-17-05	97110 (\$35.86 x 2 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$71.72
10-18-05, 10-24-05	99212 (\$49.41 x 2 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$98.82
10-17-05	97112	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$37.78
10-17-05 – 12-20-05	97110, 97140, 99211 (except as noted above)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
	Total Due		\$513.78

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. The amount due the Requestor for the items denied for medical necessity is \$513.78.

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

On 10-06-06 the Medical Review Division submitted a Notice to Requestor to submit additional documentation necessary to support the charges and to challenge the reasons the Respondent had denied reimbursement within 14 days of the Requestor's receipt of the Notice.

CPT code 97140 on 10-17-05, 10-18-05 and 10-21-05 was denied by the carrier as "W1(NG)-Since 97140 includes several modalities, all with different indications, documentation of the diagnosis or condition of the patient and a description of the services rendered must be submitted." The Requestor provided documentation per 133.301(c) and (d). Reimbursement of \$101.82 (\$33.94 x 3 units) is recommended.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.301, 133.308, 134.1 and 134.202
Texas Labor Code 413.011 and 413.031

PART VII: DIVISION 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 a refund of the paid IRO fee. The Division has determined that the Requestor is entitled to reimbursement for the services involved in this dispute in the amount of \$615.60. 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 Decision and Order by:

Medical Dispute Officer

11-27-06

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.



Specialty Independent Review Organization, Inc.

Amended Report of 11/10/06

October 31, 2006

DWC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient: ____
DWC #: ____
MDR Tracking #: M5-07-0118-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Division of Workers' Compensation has assigned this case to Specialty IRO for independent review in accordance with DWC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered 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.

This case was reviewed by a licensed Doctor of Chiropractic with a specialty in Rehabilitation. The reviewer is on the DWC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

Ms. ____ was injured on ____ while employed with Academy Limited. Ms. ____ measures 5'0" according to Dr. Proler's report and 5'4" 147 lbs according to Dr. Shanti's report. Complicating factors were not discussed in the medical records. She underwent medication management, specialist consultation, neurodiagnostic testing, physical therapy and splinting.

Dr. Connors, designated doctor, saw the patient on 9/15/05. His findings are that the patient requires further intervention via pharmacological and injection trials prior to surgery. He places the patient 'not at MMI'. The note by Dr. Shanti on 10/7/05 indicates that this patient has "denied referral to a hand surgeon by Dr. McMillan". The right wrist MRI revealed tenosynovitis of the Extensor Carpi Ulnaris tendon and TFC focal full thickness tear. The left wrist MRI indicated moderate tenosynovitis of the extensor carpi ulnaris tendon and partial thickness intrasubstance tear of the TFC. Zurich authorized 6 visits of PT on 12/21/05 to be performed between 12/21/05 and 1/21/06. Ms. ____ underwent a neurolysis of the left median nerve, decompression of the carpal tunnel and various tenolysis procedures on 1/18/06 with Dr. Varon.

RECORDS REVIEWED

Records were received from the requestor and from the respondent. Records from the respondent include the following: 10/13/06 letter from Rhett Robinson, 7/13/06 letter from Jeremy Lord and DWC 60 with table of disputed services and fax confirmation sheets.

Records from the requestor include the following: 7/19/05 NCV study, 8/11/05 initial report by J. Varon, MD, 8/31/05, 10/4/05, 12/21/05 and 1/17/06 Zurich authorization letters, DD report of 9/15/05, 9/27/05 through 01/26/06 subsequent medical reports by D. McMillan, MD, various TWCC 73's, 10/7/05 through 11/18/05 reports by I Shanti, MD, right and left wrist MRI of 11/9/05, PT progress notes of 12/12/05, 1/9/06 through 1/23/06 follow ups by J. Varon, MD, daily progress notes from 10/17/05 through 12/20/05 from D. Patel, DC and operative report of 1/18/06.

DISPUTED SERVICES

The services under dispute include 99212 office visit, 99211 office visit, 97112 neuromuscular re-education, 97110 therapeutic exercise and 97140 manual therapy from 10/17/05 through 12/20/05.

DECISION

The reviewer disagrees with the adverse determination regarding code 97140 on 11/2/05 through 11/21/05.

The reviewer disagrees with the previous adverse determination regarding code 97110 on 10/17/05 (times two units, the third unit is not found to be medically necessary).

The reviewer disagrees with the previous adverse determination regarding code 99212 on 10/18/05 and 10/24/05.

The reviewer disagrees with the previous adverse determination regarding code 97112 on 10/17/05.

The reviewer agrees with the previous adverse determination regarding all remaining services under dispute. The reviewer indicates that two units of 97110 are medically necessary from 10/18/05 through 12/8/05; however, it appears the respondent has already paid these particular units. Therefore, the remaining unit is denied as discussed in the basis for the decision.

BASIS FOR THE DECISION

The carrier has failed to submit any medical records for this review. There were not peer review reports or objective documentation to support their side of this case. Regardless, the case was reviewed with the documentation available. It is difficult, according to the reviewer, to review a case of this nature when records of services performed prior to these dates are not provided. For example it is impossible to determine when such exercises were started and the progress of said exercises.

The reviewer notes that the daily notes by Dr. Patel are very basic in nature. They do provide necessary information but further objective measures including ROM and pain scales would be very helpful to determine patient improvement. The reviewer notes that the objective findings/treatment intervention sections are basically the same on each and every of the dates under review. The notes indicate a minimum of 6 exercises and a maximum of 7 exercises were performed on a daily basis in the reported 45 minutes of 97110. No beginning or ending times were noted on each date of service. It is not reasonable to assume that this number of exercises would require forty-five minutes of therapy on each and every date of therapy. The manual therapy notes also are written in the same way on each date of service stating, 'joint mobilization by passive stretching of forearm flexors and extensors wrist' and 'myofascial release to wrist and forearm region'. Due to the lack of documentation of improvement, an initial four-week course of manual therapy is granted as medically reasonable and necessary as is an initial four-week course of two total units of 97110 per date of service under review. Any more than two units of 97110 are found to be not medically necessary. (i.e. on a date where the carrier paid for two units then no further units are found to be medically necessary).

The notes of Dr. Shanti on 10/7/05 indicate her pain scale is a 9/10 while the 10/21/05 note indicates a 7/10. The 11/18/05 note by Dr. Shanti indicates a 7/10 pain scale. The PT report of 12/12/05 is the first documentation from the TD's office that her pain is at a 6/10. The patient eventually had surgery in early 2006.

Regarding the office visits, a weekly office visit of a 99212 nature is within the scope of reasonable medical treatment. Daily or multiple office visits within a week are not medically necessary.

REFERENCES

Medicare Payment Policies and Guidelines

Christensen K Physiotherapy and Rehabilitation Guidelines for the Chiropractic Profession, Council on Chiropractic Physiological Therapeutics and Rehabilitation, 1998

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that the reviewing provider has no known conflicts of interest 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.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director

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 (other than a spinal surgery prospective 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.

Sincerely,

Wendy Perelli, CEO

I hereby certify, in accordance with TDI/DWC- Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the DWC via facsimile, U.S. Postal Service or both on this 10 day of November 2006

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli