



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:

Cotton D. Merritt, D. C.
2005 Broadway
Lubbock, TX 79401

MDR Tracking No.: M5-07-0262-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

DEEP EAST TEXAS SELF INSURANCE, BOX 01

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position summary (Table of Disputed Services) states, "The diagnostic test is reasonable and medically necessary as related to the compensable injury."

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, "Deep East Texas Self Insurance Fund's third party administrator (Review Med) recommended that payment of the billed services should be denied based on "These are non-covered services because this is not deemed a medical necessity, and the performing provider is not eligible to re/prescribe/order/perform the services billed."

Principle Documentation:

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

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)
5-23-06	99243	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$145.00<MAR
5-23-06	95903 (\$79.88 x 3 units per IRO decision)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$239.64
5-23-06	95904 (\$62.93 x 4 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$251.72
5-23-06	95934 (\$43.94 x 1 unit per IRO decision)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$43.94
5-23-06	95861	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
	Total Due		\$680.30

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.

These services were also denied as "52-The referring/prescribing/rendering provider is not eligible to refer/prescribe/order/perform the service billed." The Texas Board of Chiropractic Examiners has ruled that doctors of chiropractic can perform nerve conduction studies if the doctor has the knowledge and training to perform these tests in a safe and competent manner. This is discussed in the Health Care Technical Update Issue No. 4 dated March, 2006.

The Division has reviewed the enclosed IRO decision and determined that the Requestor did prevail on the disputed medical necessity issues. Per Rule 134.202(d)(2) the amount due the Requestor for the items denied for medical necessity is \$680.30.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 134.1, 134.202
Texas Labor Code Sec. § 413.011(a-d), 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 carrier must refund the amount of the IRO fee (\$650.00) to the Requestor within 30 days of receipt of this order. The Division has determined that the Requestor is entitled to additional reimbursement in the amount of \$680.30. 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

02-06-07

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.

February 2, 2007
January 4, 2007
December 28, 2006

Texas Department of Insurance Division of Texas Worker's Compensation
MS48
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1609

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-07-0262-01

DWC #:

Injured Employee:

Requestor: Cotton D. Merritt, DC

Respondent: Deep East Texas Self Insurance

MAXIMUS Case #: TW06-0169

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. The TDI, Division of Workers Compensation (DWC) has assigned this case to MAXIMUS in accordance with Rule §133.308, which allows for a dispute resolution by an IRO.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician who is board certified in neurology on the MAXIMUS external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the approved doctor list (ADL) of DWC or has been approved as an exception to the ADL requirement. A certification was signed 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, was signed. In addition, the MAXIMUS physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns an adult female who sustained a work related injury on . Records indicate that she fell down a set of bleachers resulting in a fracture of the left knee. Diagnoses have included common peroneal nerve irritation. Evaluation and treatment for this injury has included evaluation and nerve conduction velocity and EMG studies.

Requested Services

Nerve Conduction—Motor (95903), Nerve Conduction—Sensory (95904), H-reflex Amp & Latency Study (95934), Needle electromyography-two extremities (95861) and Office Consultation (99243) on 5/23/06.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Records and Correspondence from Cotton D. Merritt, DC – 5/23/06

Documents Submitted by Respondent:

None Submitted

Decision

The Carrier's denial of authorization for the requested services is partially overturned.

Standard of Review

This MAXIMUS determination is based upon generally accepted standard and medical literature regarding the condition and services/supplies in the appeal.

Rationale/Basis for Decision

The MAXIMUS physician consultant indicated this is a case of a female who sustained a work related injury in

The MAXIMUS physician consultant noted she fell down bleachers sustaining a fracture of the left knee and was subsequently demonstrated to have an irritation of the common peroneal nerve. The MAXIMUS physician consultant also noted the medical record indicates that she complained of pain along the lateral aspect of the knee to the foot with numbness in the distribution of the peroneal nerve with findings consistent with decreased sensation in the affected limb. The MAXIMUS physician consultant explained that the standard concerning medical necessity for electrodiagnostic testing is set forth by the American Academy of Neuromuscular and Electrodiagnostic Medicine. The MAXIMUS physician consultant indicated that since this patient only had unilateral symptoms, the guidelines recommend an allowance of one extremity EMG, not 95861 (two extremities). The MAXIMUS physician consultant noted that allowed would include three units for 95903, four units of 95903 and one 95934. (www.aanem.org/practice issues)

Therefore, the MAXIMUS physician consultant concluded that Nerve Conduction-Motor (95903) at 3 units, Nerve Conduction-Sensory (95904) at 4 units, H-reflex Amp & Latency Study (95934) At 1 unit, and Office Consultation (99243) on 5/23/06 were medically necessary for treatment of the member's condition. The MAXIMUS physician consultant also concluded that Needle electromyography-two extremities (95861) was not medically necessary for treatment of the patient's condition.

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Sincerely,
MAXIMUS

Lisa Gebbie, MS, RN
State Appeals Department

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