



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

Requestor's Name and Address:

MDR Tracking No.: M5-07-0354-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

TPCIGA FOR CASUALTY RECIPROCAL, BOX 50

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

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

**Position Summary:** "I am submitting a claim for medicine prescribed by Dr. Bessonett for pain and muscle spasms. There is no over-the-counter type medicine I can safely take that will take the place of these two medications."

**Principle Documentation:**

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

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

**Position Summary:** "It is the position of TPCIGA that the dates of service in dispute were not reasonable and necessary per the RME. After May 21, 2006 the medication in question is considered not to be reasonable or necessary for the compensable injury."

**Principle Documentation:**

1. DWC-60/Table of Disputed Services/Position Summary
2. 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)
6-6-06 – 11-21-06	Carisoprodol, Hydrocodone	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
Total Due			\$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.

Services for 9-26-06, 10-23-06 and 11-21-06 were forwarded to the IRO for review as the Respondent stated in its position summary of December 21, 2006, that these medications are “not considered to be reasonable or necessary for the compensable injury.”

The Division has reviewed the enclosed IRO decision and determined that the Requestor did not prevail on the disputed medical necessity issues. No reimbursement recommended.

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

Texas Labor Code 413.011(a-d) and 413.031  
28 Texas Administrative Code Sec, 133.308 and 134.1

**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 reimbursement for the services involved in this dispute.

**Findings and Decision by:**

Medical Dispute Officer

02-16-07

Authorized Signature

Typed Name

Date of Findings and Decision

**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.

02/02/2007

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

Patient: \_\_\_\_  
DWC #: \_\_\_\_  
MDR Tracking #: M5-07-0354-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The TDI-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 Medical Doctor with a specialty in Neurology. 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

According to a medical records provided, \_\_\_\_\_ stated he injured his back when lifting a car battery on \_\_\_\_\_. He was treated with multiple different interventions, including physical therapy and multiple injections. He has not worked since the injury on \_\_\_\_\_. No records were submitted regarding \_\_\_\_\_'s initial treatment. Dr. Swink's examination of 02-26-01 revealed that he would bend only 10 degrees in any direction. He had complaints of lower back pain to light touch. He stood with forward flexion at the waist to about 20 degrees. He had complaints with straight leg raising at 80 degrees bilaterally. His lower extremity reflexes were 1+ and symmetric. He had normal strength and sensory function. Dr. Swink's impression was lumbar disk injury superimposed on degenerative changes of the lumbar spine.

Previous imaging studies of the lumbar spine obtained on 06-15-01 revealed a degenerative disk disease with loss of T2 signal intensity from the disk nuclei at L4-5 and L1-2. There was bulging of the disks at these levels with associated moderate disk space narrowing.

There were degenerative changes of the facet joints with bony and ligamentous posterior hypertrophy causing mild narrowing of the central canal at L2-3. This did not appear to significantly impinge upon the thecal sac or exiting nerve roots, however. There was no focal protrusion of disk material visible and no impingement on the central spinal canal or exiting nerve roots. Contrast enhancement showed no significant enhancing scar.

Also, \_\_\_\_\_ had a history of excessive daytime sleepiness. Sleep studies done on 11-29-03 and 12-22-03 confirm the presence of significant sleep apnea syndrome which was effectively relieved by nasal C-Pap. He also had mild periodic limb movements of sleep which resolved with C-Pap treatment.

\_\_\_\_\_ has been managed by Paula Bessonett, MD from Allied Pain Management Clinic from 06-05-06 to 12-11-06. From Dr. Bessonett, he has been receiving prescription medications including Vicodin 10/650 milligrams one q.i.d. as needed for pain, Soma 350 milligrams one q.i.d. as needed for muscle spasms, Zoloft 100 milligrams one every 12 hours, Elavil 50 milligrams one at bedtime for insomnia and neuropathic pain, Mobic 15 milligrams one p.o. every day and Lidoderm 5 percent patch applied to the affected area 12 hours per 24 hours.

Dr. Bessonett's office notes include very limited physical examinations documenting only under musculoskeletal limited motion with flexion and rotating leg movements and a slow, stiff gait and stiffness and pain with movement.

When initially seen on 12-11-06, he was described as having "exquisite tenderness to palpation of the paravertebral musculature". His pain diagram drawn on 09-25-06 revealed almost entire back pain from his occiput to his ankles posteriorly and over his anterior thighs, anterior shins, his anterior trapezii and his fingers and palms. Dr. Timothy Lambert, a chiropractor recommended on 09-25-06 that \_\_\_ try aquatic therapy to increase his flexibility and decrease his pain. When seen on 08-28-06, he was requesting an electric wheelchair or scooter from Dr. Bessonett. Examination by Dr. Lambert on the same date revealed normal reflexes and tightness in his calves. There were no electrodiagnostic studies submitted. There were no reports from neurosurgery or orthopedics submitted.

#### RECORDS REVIEWED

Records were received and reviewed from the requestor, respondent and from the treating doctor.

Explanation of benefits, pharmacy invoices and copies of pharmacy records dated 02-27-06 through 09-29-06  
Correspondence to Mr. \_\_\_ by Carolyn Sisnero, Crawford Risk Management Services dated 06-05-06 through 10-10-06.  
Correspondence by Mr. \_\_\_ to Ms. Sisnero dated 06-06-06 through 07-27-06.  
Correspondence to Texas Department of Insurance from Kathy Hernandez, Texas Property and Casualty Insurance Guaranty Association dated 12-21-06.  
Independent Medical Examination by James Swink, MD, dated 02-20-06.  
Office progress notes, Allied Pain Management Center dated 06-05-06 through 12-11-06.  
Handwritten note addressed to Wendy Perelli, not dated or signed.  
MRI of the lumbar spine dated 06-15-01.  
Polysomnograms dated 11-29-03 and 12-22-03.

#### DISPUTED SERVICES

The services under dispute include carisoprodol tab 350mg and hydrocodone 650mg from 6/6/06 through 11/21/06.

#### DECISION

The reviewer agrees with the previous adverse determination.

#### BASIS FOR THE DECISION

Mr. \_\_\_ has a chronic pain disorder. The cause of his pain is uncertain. This may be due to a myofascial pain syndrome. He has no reported neurological deficits. His MRI findings are minimally abnormal and may be frequently seen in the normal working population of individuals Mr. \_\_\_'s age. The absence of any neurologic deficit or in the absence of any electrophysiologic correlation, the findings on his MRI are of uncertain significance.

There is abundant literature to suggest that treatment of chronic pain disorders with chronic narcotic therapy may not be optimal. It is unlikely that now, approximately 5 years after Mr. \_\_\_'s original injury, he would still require acute pain medications in the form of Vicodin and Carisoprodol to manage his pain.

#### REFERENCES

##### ODG Guidelines

Martell BA, O'Connor PG, Kerns RD, Becker WC, Morales KH, Kosten TR, Fiellin DA. Systematic review: opioid treatment for chronic back pain: prevalence, efficacy, and association with addiction. *Ann Intern Med.* 2007 Jan 16;146(2):116-27

Tulder M, Koes B. Chronic low back pain. *Am Fam Physician.* 2006 Nov 1;74(9):1577-9. Review.

Diamond S, Borenstein D. Chronic low back pain in a working-age adult. *Best Pract Res Clin Rheumatol.* 2006 Aug;20(4):707-20

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, 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.**

Sincerely,

Wendy Perelli, CEO

**I hereby certify, in accordance with DWC- Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the Division via facsimile, U.S. Postal Service or both on this 2<sup>nd</sup> day of February 2007**

**Signature of Specialty IRO Representative:**

**Name of Specialty IRO Representative: Wendy Perelli**