**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

| Requestors Name and Address: | MDR Tracking No.: M5-07-0501-01<br>MDR Tracking No.: M4-04-1781-01 |
|---|---|
| Town East Rehabilitation, L.L.C.<br>1125 Town East Mall<br>Mesquite, TX 75150 | Claim No.: |
| | Injured Employee's Name: |
| Respondent's Name and Address: | Date of Injury: |
| AMERICAN HOME ASSURANCE CO, BOX 19 | Employer's Name: |
| | Insurance Carrier's No.: |

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

Position summary states, "Although this patient received several weeks of physical therapy services the treatment was medically necessary in order for her to achieve a level in which she would return to work."

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, "Enclosed please find documents responsive to this issue for your review…There was no further recommendation of payment."

Principle Documentation:

1. DWC-60/Table of Disputed Service
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) |
|---|---|---|---|
| 02-19-03 - 03-20-03 | 97110 ($31.50<MAR x 19 units) | ☒ Yes ☐ No | $598.50 |
| 02-17-03 – 03-20-03 | 99213, 97014, 97010, 97530 | ☐ Yes ☒ No | $0.00 |
| | Total Due | | $598.50 |

**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 disputed medical necessity issues. Per the 1996 MFG the amount due the Requestor for the items denied for medical necessity is $598.50.

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

28 Texas Administrative Code Sec. 133.304(i)(1-4), 133.307(g)(3)(D), 133.307 (e)(2)(B), 133.307 (e)(3)(B), 133.307(j)(2)Texas Labor Code 413.011(d), 1996 MFG General Instruction Ground Rules, 1996 MFG Evaluation and Management Ground Rule IV C. and VI, 1996 MFG Medicine Ground Rule I.A.b., Medicine Ground Rule IV.A.

## 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 Requestor is not due a refund of the IRO fee. The Division has determined that the Requestor is entitled to reimbursement in the amount of $598.50. 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:**

| | | 04-20-07 |
|---|---|---|
| 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.**

Notice of independent Review Decision

# Amended Review

SENT TO: Texas Department of Insurance
Health & Workers' Compensation Network Certification and QA
Division (HWCN) MC 103-5A
Via E-mail IRODecisions@tdi.state.tx.us

Injured Employee
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January 23, 2007

RE: IRO Case #: M5-07-0501-01
Name: ___
Coverage Type: Workers' Compensation Health Care (Non-network)
Type of Review: retrospective

Medical Review Institute has been certified, certification number 5278, by the Texas Department of Insurance (TDI) as an Independent Review Organization (IRO). TDI has assigned this case to the IRO for independent review in accordance with the Texas Insurance Code, the Texas Labor Code and applicable regulations.

The IRO has performed an independent review of the proposed/rendered care to determine if the adverse determination was appropriate. In the performance of the review, the IRO reviewed the medical records and documentation provided to the IRO by involved parties.

This case was reviewed by a PHYSICAL THERAPY. The reviewer has signed a certification statement stating that no known conflicts of interest exist between the reviewer and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent (URA), any of the treating doctors or other health care providers who provided care to the injured employee, or the URA or insurance carrier health care providers who reviewed the case for a decision regarding medical necessity before referral to the IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.
As an officer of Medical Review Institute of America I certify that:

1. There is no known conflict between the reviewer, the IRO and/or any officer/ employee of the IRO with any person or entity that is a party to the dispute, and

2. A copy of this IRO decision was sent to all of the parties via U.S. Postal Service or otherwise transmitted in the manner indicated above on 1/23/07.

Right to Appeal
You have the right to appeal the decision by seeking judicial review. The decision of the IRO is binding during the appeal process.

For disputes other than those related to prospective or concurrent review of spinal surgery the appeal must be filed:

1) Directly with a district court in Travis County (see Labor Code §413.031(m), and

2) Within thirty (30) days after the date on which the decision is received by the appealing party.

For disputes related to prospective or concurrent review of spinal surgery, you may appeal the IRO decision

by requesting a Contested Case Hearing (CCH). A request for a CCH must be in writing and received by the Division of the Workers' Compensation, Division Chief Clerk, within ten (10) days of your receipt of this decision.

Sincerely,

Case Analyst: Cherstin B ext 593
Case Fulfillment Specialist

DATE OF REVIEW:
January 23, 2007

IRO Case #: M5-07-0501-01

DESCRIPTION OF THE SERVICES IN DISPUTE:
Dates of service 2/17/03 through 3/20/03:
Item(s) in Dispute; Office visits #99213, electrical stimulation (unattended) #97014, hot/cold packs #97010, therapeutic activities #97530 and therapeutic exercises #97110.

A DESCRIPTION OF THE QUALIFICATIONS FOR EACH PHYSICIAN OR OTHER HEALTH CARE PROVIDER WHO REVIEWED THE DECISION:

The chiropractor who provided this review has been issued a certificate by the state Board of Chiropractic Examiners. This reviewer has also received certification for Acupuncture. This reviewer is a fellow of the American Back Society. This reviewer is a member of the American Academy of Disability Evaluating Physicians and the Texas Chiropractic Association. This reviewer has been in active practice since 1986.

**REVIEW OUTCOME:**

Upon independent review the reviewer finds that the previous adverse determination/adverse determinations should be:

Partially Overturned

Provide a description of the review outcome that clearly states whether or not medical necessity exists for each of the health care services in dispute.

Decision to certify as medical necessary, #97110 Therapeutic Exercises.

Decision not certify as medically necessary, office visit #99213; electrical stimulation #97014; hot / cold packs #97010; and therapeutic activities #97530.

INFORMATION PROVIDED TO THE IRO FOR REVIEW:

FROM THE STATE OF TEXAS:

Notification of IRO Assignment 1/11/07 - 1 page
Explanation of Benefits 2/17/03 - 2/20/03 - 2 pages
Explanation of Benefits 3/3/03 - 3/7/03 - 2 pages
Explanation of Benefits 3/3/03 - 3/7/03 - 2 pages
Explanation of Benefits 3/10/03 - 3/14/03 - 2 pages
Explanation of Benefits 3/17/03 - 3/20/03 - 2 pages
CONSILIUMMD review 1/2/03 - 2 pages

FROM

Independent Review Organization Summary 1/16/07 - 2 pages

CONSILIUMMD reviews 1/2/03 – 7 pages
Employer's first report of injury or illness – 1 page
Emergency Physician record 1/2/03 – 2 pages
Nurses' notes 1/2/03 – 2 pages
Triage notes 1/2/03 – 1 page
Radiology report 1/3/03 – 1 page
Radiology report 1/2/03 – 1 page
Radiology report 1/2/03 – 1 page
Radiology report 1/2/03 – 1 page
Radiology report 1/2/03 – 1 page
Laboratory report 1/2/03 – 3 pages
Emergency history and physical 1/2/03 – 1 page
Emergency orders/notes 1/2/03 – 1 page
Emergency assessment sheets 1/2/03 – 2 pages
Consultation/examination request forms 1/2/03 – 1 page
Patient care forms 1/2/03 – 1 page
Comprehensive Occupational Medicine program 1/6/03 – 1 page
Work status report 1/6/02 – 1 page
Radiology report 1/9/03 – 1 page
Physician charge sheet 1/9/03 – 1 page
Progress notes 1/9/03 – 1 page
Work status report 1/9/03 – 1 page
Progress notes 1/13/03 – 1 page
Work status report 1/5/03 – 1 page
Physical examination 1/20/03 – 5 pages
Work status report 1/20/03 – 1 page
MRI lumbar spine report 1/21/03 – 2 pages
MRI cervical spine report 1/21/03 – 2 pages
Doctor's notes 1/27/03 – 1/31/03 – 2 pages
New patient notes 1/30/03 – 1 page
Anesthesiologist notes 1/30/03 – 4 pages
Anesthesiologist notes 2/6/03 – 1 page
Anesthesiologist notes 2/13/03 – 2 pages
Anesthesiologist notes 2/20/03 – 1 page
Chart notes 2/24/03 – 4 pages
Letter from Dr. Cunningham, MD 2/24/03 – 4 pages
Work status report 3/5/03 – 1 page
Anesthesiologist notes 3/6/03 – 2 pages
Anesthesiologist notes 3/20/03 – 1 page
Initial functional capacity evaluation 3/27/03 – 4 pages
Anesthesiologist notes 3/26/03 – 1 page
Physician's notes 3/28/03 – 1 page
Work status report 4/4/03 – 1 page
Work status report 4/11/03 – 1 page
Work status report 4/14/03 – 1 page
Work status report 4/28/03 – 1 page
Work status report 5/5/03 – 1 page
Work status report 5/12/03 – 1 page
Dispute letter from Dr. White, DC 5/27/03 – 2 pages
Certification of appointment from Dr. White 5/27/03 – 1 page
Work status report 5/27/03 – 1 page
Subsequent functional capacity evaluation 6/4/03 – 4 pages
Work status report 6/9/03 – 1 page
Report of medical evaluation 7/1/03 – 1 page
Report of medical evaluation 6/23/03 – 1 page

Report of medical evaluation 6/23/03 – 4 pages
Musculoskeletal exam notes 6/23/03 – 1 page
Daily sign in sheet 6/23/03 – 1 page
Work status report 6/9/03 – 1 page
Plan of care/statement of medical necessity for PT services 1/3/02 – 2 pages
PT treatment notes 1/24/03 – 1 page
PT treatment notes 1/31/03 – 1 page
PT treatment notes 2/7/03 – 1 page
PT treatment notes 2/14/03 – 1 page
PT treatment notes 2/21/03 – 1 page
Chart note 2/19/03 – 1 page
PT treatment notes 2/28/03 – 1 page
Progress report – 1 page
PT treatment notes 3/7/03 – 1 page
PT treatment notes 3/10/03 – 2 pages
PT treatment notes 3/21/03 – 2 pages
Daily sign in sheet 4/4/03 – 1 page
Daily sign in sheet 4/11/03 – 1 page
Daily sign in sheet 4/14/03 – 1 page
Daily sign in sheet 4/28/03 – 1 page
Daily sign in sheet 5/5/03 – 1 page
Daily sign in sheet 5/12/03 – 1 page
Daily sign in sheet 5/27/03 – 1 page
Physical exam – 2 pages
Daily sign in sheet 6/9/03 – 2 pages
Physical exam – 2 pages

FROM TOWN EAST REHAB:

Medical dispute resolution request/response form – 1 page
Provider form – 1 page
Medical dispute resolution request/response form – 1 page
Provider form –1 page
Table of disputed services – 5 pages
Rationale for fee reimbursement 1/2/03 – 2 pages
Physical examination – 1/20/03 – 4 pages
Provider notes 1/20/03 – 1/31/03 – 2 pages
PT treatment notes 1/31/03 – 1 page
Work status report – 1 page
Anesthesiologist notes 1/30/03 – 3 pages
Provider notes 2/3/03 – 2/5/03 – 1 page
Anesthesiologist notes 2/6/03 – 1 page
Provider notes 2/10/03 – 2/12/03 – 1 page
Work status report 2/15/03 – 1 page
Provider notes 2/17/03 – 2/19/03 – 1 page
PT treatment notes 2/21/03 – 1 page
Provider notes 2/24/03 – 2/27/03 – 1 page
Provider notes 3/3/03 – 3/5/03 – 1 page
Provider notes 3/10/03 – 3/14/03 – 1 page
Provider notes 3/17/03 – 3/19/03 – 1 page
CONSILIUMMD review 1/2/03 – 2 pages
Dispute letter from Dr. White, DC 5/27/03 – 2 pages
Explanation of Benefits 2/17/03 – 2/20/03 – 1 page
HCFA billing forms 2/19/03 – 2/20/03 – 2 pages
HCFA billing forms 2/17/03 – 2/19/03 – 1 page

PT treatment notes 2/21/03 - 2 pages
Anesthesiologist notes 2/20/03 - 1 page
Town East Rehab description and goals 2/19/03 - 2 pages
Reevaluation forms 8/18/03 - 2 pages
HCFA billing forms 3/7/03 - 3/7/03 - 2 pages
HCFA billing forms 3/3/03 - 3/7/03 - 2 pages
HCFA billing forms 3/3/03 - 3/7/03 - 3 pages
PT treatment notes 3/7/03 - 2 pages
HCFA billing forms 3/14/03 - 1 page
HCFA billing forms 3/12/03 - 3/14/03 - 1 page
HCFA billing forms 3/10/03 - 3/12/03 - 1 page
HCFA billing forms 3/10/03 - 3/12/03 - 1 page
HCFA billing forms 3/14/03 - 1 page
PT treatment notes 3/10/03 - 2 pages
HCFA billing forms 3/17/03 - 3/19/03 - 1 page
HCFA billing forms 3/19/03 - 3/20/03 - 2 pages
Explanation of Benefits 3/20/03 - 1 page
PT treatment notes 3/21/03 - 2 pages

PATIENT CLINICAL HISTORY [SUMMARY]:

This is the case of a female worker who fell off a ladder at work sustaining injuries to her back and neck.

ANALYSIS AND EXPLANATION OF THE DECISION INCLUDE CLINICAL BASIS, FINDINGS AND CONCLUSIONS USED TO SUPPORT THE DECISION:

There is no physical examination and a very scanty history presented in this case. There are no special tests or diagnostic measures to substantiate the cause of the person's problem. There is no treatment plan or goals leading to the resolution of this person's problem. The SOAP notes are minimal, unqualified and unquantified.

There is no documentation of injury or flare up or anything that would account for the patient's pain or dysfunction. There are no standard accepted orthopedic or neurological notes confirming an injury or a specific condition. There is no diagnosis; no special testing or diagnostic measures were performed to substantiate the cause of the person's problem. There is no treatment plan or goals leading to a resolution of this condition.

For medical necessity to be established there must be a reasonable expectation of recovery or improvement within a reasonable and generally accepted timeframe. In addition, the type, frequency and duration of services must be reasonable and consistent with the standards of practice in the chiropractic community.

In this case the documentation does not show any objective signs of clinical improvement to warrant further treatment.

"In general, some evidence of measurable clinical improvement (objective and subjective) should be noted within 8 visits or 2 to 4 weeks to justify continued care". Vear, HJ, in Huff, Brady, in Instant Access to Guidelines and Protocols, Mosby 1999, 2006.

The Manga Report suggests guidelines for those patients who have no objective signs of clinical improvement after care:

"After three months of follow-up examinations, the clinician should request a consultation for unimproved patients. The consult should be multidisciplinary, including specialists for the spine, the psyche and functional and occupational medicine". Manga P Et al: The Effectiveness and Cost Effectiveness of Chiropractic Management of Low Back Pain, Ontario Ministry of Health, In Huff, Instant Access to Chiropractic Guidelines and Protocols, Mosby 2006

The documentation does not substantiate the billing for therapeutic activities. The use of passive modalities at this state of the treatment is not warranted according to the guidelines, peer review or evidence based practice.

"Proceed to rehabilitation as quickly as possible to avoid or minimize dependency on passive forms of treatment". Haldemann S Et al. Guidelines for Chiropractic Quality and Practice Parameters: The Proceedings of the Mercy Center Conference, Gaithersburg, M.D, 1993, Aspen Publishers.

The therapeutic exercises are warranted, however the use of passive modalities such as electric stimulation and hot packs should not be paid. There is insufficient documentation to warrant the payment of therapeutic activities in this case.

**A DESCRIPTION AND THE SOURCE OF THE SCREENING CRITERIA OR OTHER CLINICAL BASIS USED TO MAKE THE DECISION:**

Medical literature of the scientific community

Wolsko PM, Eisenberg DM, Davis RB et al. Patterns and perceptions of care for treatment of back and neck pain: results of a national survey. *Spine*. 2003; 28 (3): 292-297

Atlas SJ, Nardin RA. Evaluation and treatment of low back pain: an evidence-based approach to clinical care. Muscle and Nerve. 2003: 27 (3) 265-284

Pengle HM, Maher CG, REfshauge KM. Systematic review of conservative interventions for subacute low back pain. Clinical Rehabilitation 2002/ 16 (8): 811-820

Bates, B A Guide to Physical Examination and History Taking, 1999

Vear, HJ, in Huff, Brady, in Instant Access to Guidelines and Protocols, Mosby 199, 2006.

Manga P Et al: The Effectiveness and Cost Effectiveness of Chiropractic Management of Low Back Pain, Ontario Ministry of Health, In Huff, Instant Access to Chiropractic Guidelines and Protocols, Mosby 2006

Haldemann S Et al. Guidelines for Chiropractic Quality and Practice Parameters: The Proceedings of the Mercy Center Conference, Gaithersburg, M.D, 1993, Aspen Publishers.

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