Texas Department of Insurance, Division of Workers' Compensation
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

PART I: GENERAL INFORMATION

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

Requestor's Name and Address:	MDR Tracking No.: M4-05-4299-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Texas Mutual Insurance Co. Box 54	Date of Injury:
	Employer's Name: Perez Investments, Inc.
	Insurance Carrier's No.: 99C0000331742

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary dated March 24, 2005 was submitted by Robert P. Wilson, attorney for injured worker, states in part, "Proof request for reconsideration of denial for out of pocket expenses went to carrier. No response was ever received from carrier regarding acceptance or denial. Carrier refuses to reimburse client for $18,000 for his out-of-pocket expenses."

Principle Documentation: Table of Disputed Services; confidential facsimile communication to Mr. xxxx of Texas Mutual Insurance; copy of check to La Hacienda Treatment Center for $16,300; receipt showing payment received by La Hacienda; correspondence from injured workers' attorney to Texas Mutual Insurance Co. (TMIC); response, hand written on correspondence from injured workers' attorney, from Ms. xxx of TMIC; correspondence from Dr. Daniel Boone; correspondence from Dr. Daniel J. Boyle II; and correspondence to Ms xxx of TMIC dated May 24, 2005, from xxxx

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position Summary dated May 10, 2005 states in part, "The requester did not obtain the required preauthorization and did not provide documentation supporting exemption from the required preauthorization… The requester has not provided documentation of an emergency as defined in TWCC Rule 133.1(7)…"

Principle Documentation: Position Summary; and peer review report, dated February 28, 2005, from Dr. John P. Obermiller.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Part V Reference	Additional Amount Due (if any)
02/14/04 – 03/19/04	Chemical Dependency Inpatient Hospitalization		

PART V: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Rule 134.600(b) indicates, in pertinent part, that the insurance carrier is liable for treatment that requires preauthorization "only when the following situations occur: (A) an emergency, as defined in §133.1 of this title (relating to Definitions); (B) preauthorization of any health care listed in subsection (h) of this section was approved prior to providing the health care…" Chemical dependency programs and inpatient hospitalizations both require preauthorization under the provisions of this rule. In this situation, there is no dispute that the services, which were provided, required preauthorization and were not preauthorized. Accordingly, the principle dispute is whether or not this situation meets the definition of an emergency under Rule 133.1.

Rule 133.1(a)(7) defines a medical emergency as:

(A) one that consists of the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonable be expected to result in placing the patient's health and/or bodily functions in serious jeopardy, and/or serious dysfunction of any body organ or part.

(B) a mental health emergency is a condition that could reasonably be expected to present danger to self or others.

Correspondence from Daniel Boyle II, D.O., the injured workers treating doctor, dated February 13, 2004 gives a timeline of events leading up to the admission to the treatment center. This correspondence also includes a quote from the insurance carrier's physician (Dr. Xeller) indicating that [injured worker} "…should be weaned off of the Methadone,…"; this same letter also states, "…I would recommend that [injured worker] be placed in the drug treatment program at La Hacienda. This needs to be done expeditiously to avoid a drug withdrawal reaction. Other correspondence submitted by Dr. Daniel Boyle, II, , states in part that the injured worker was injured while driving a motor vehicle in the scope of his work activity and had a knee injury which was painful. The knee required surgical repair and [injured worker] had to take pain medication for the pain involved in the knee injury. [Injured worker] became dependent on the medication and was not able to be weaned off the medication as an out patient. The problem is that [injured worker] became addicted to the medication and this required in patient detoxification. This was an emergency since he was taking too much medication and we could not control him once he had the medication in hand. I was unable to continue to provide medication to him once he because addicted and was not able to follow my directions on the out patient weaning process. Dr. Daniel Boone on behalf of the injured worker states in part that the injured worker was having severe withdrawal symptoms from his opiate dependency and was admitted as an emergency admission on 2/14/2004. Dr. Boone concludes his correspondence by stating that the severity of the symptoms would not allow him to wait for a scheduled admission time.

A medical report from John Obermiller, M.D. dated February 28, 2005 specifically addressed questions raised by the insurance carrier regarding whether or not this met the requirements of an emergency under Rule 133.1. Dr. Obermiller opined that "The record clearly does not support the claimant's condition as being emergent. Several attempts were made to wean the claimant off Methadone as early as June 2003. There are no annotations in the record that the claimant intended to harm himself or others. The claimant most definitely required detoxification. However this could have been approached in a more conservative manner and not as an alleged emergent condition. It is my opinion that the detoxification was reasonable and necessary but it does not meet the criteria set forth by Rule 133.1 as an emergent condition."

Since the use of methadone is not a prescription commonly seen in medical disputes, this reviewer performed some additional research on the subject. It was noted that most of the drug fact sheets, such as the one published by the Office of National Drug Control Policy, indicate that methadone is typically used in chemical dependency treatment programs. As stated in this particular fact sheet: "Methadone does not impair cognitive functions. It has no adverse effects on mental capability, intelligence, or employability. It is not sedating or intoxicating, nor does it interfere with ordinary activities such as driving a car or operating machinery. Patients are able to feel pain and experience emotional reactions. Most importantly, methadone relieves the craving associated with opiate addiction." It also indicates that withdrawal from methadone has been reported to be less severe than off other narcotics and methadone treatment can continue for a longer period of time without harsh side effects. Accordingly, this research raises other factual questions related to this treatment and the possible severity of the withdrawal symptoms

All the doctors seem to agree that some treatment was needed, but the medical records submitted with this dispute do not show that the claimant's condition met the rule requirements of an emergency. In order to obtain another opinion on this matter, this reviewer also consulted with the Division's Medical Advisor (a Board Certified Orthopedic Surgeon), who concurred with Dr. Obermiller's assessment. While the medical records show the possibility of "severe" withdrawal symptoms and the need for some type of health care, the records do not show:

- a sudden onset of a medical condition;
- the need for "immediate" medical attention; or
- a condition that could reasonably be expected to present danger to self or others.

The treating doctor, the hospital, or the claimant could have requested preauthorization prior to the admission (insurance

carriers are required to process these requests within three working days) and the treating doctor could have arranged for some type of alternative approach during this short administrative process. However, no such attempts appear to have been done, before or during the course of this admission.

Based upon the documentation submitted by the parties, the Division finds that this situation does not constitute an emergency under the strict interpretation of Rule 133.1(a)(7). Since no preauthorization was requested and the insurance carrier did not approve the treatment prior to it being rendered, the insurance carrier is not liable for the costs of this treatment.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sections 133.1 and 134.600

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 not entitled to reimbursement.

Issued by:

	Allen C. McDonald, Jr.	October 28, 2005
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.