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: (x) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier

Requestor's Name and Address: RS Medical P.O. Box 872650 Vancouver, WA 98687-2650	MDR Tracking No.: M4- 05-5523-01 Claim No.: Injured Employee's Name:
Respondent's Name and Address: Jacobs Engineering Group Inc. C/O ACE USA/ESIS Rep Box: 15	Date of Injury: Employer's Name: Jacobs Engineering Group Inc. Insurance Carrier's No.: 2473135556423X

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Requestor's Position Summary: "Payment has been made based on old fee guidelines for E0745; which had a D code in the pre 1996 fee schedule, which is not a comparable device as it provides only muscle stimulation. The Commission has not established a maximum allowable for the RS4I Sequential Stimulator. The RS4I provides 2 modalities…4 channel muscle stimulation plus interferential electrotherapy, providing equivalent therapy of 2 devices, therefore a higher fee allowance is reasonable and warranted."

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

Respondent's Position Summary: "...Carrier stands by ACCUMed review/ payment recommended."

Principle Documentation:

1. Position Summary

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	Denial Code	CPT Code(s) or Description	Part V Reference	Additional Amount Due (if any)
03/29/04 – 04/28/04	F/O	E-1399-RR	A 1-9	$ 29.70
4/29/04	No EOB/ O	A4595 (A4556)	B 1	$ 00.00
04/29/04 – 05/28/04	F/O	E-1399-RR	A 1-9	$ 29.70
TOTAL DUE				$ 59.40

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

A. The disputed issue: Whether additional payment is due the Requestor for rental of DME known as the RS4i.

1. The Respondent EOB denial code(s) asserts: "F –Reduced according to Fee Guideline" and "O -Previous recommendations will stand as they were defined and no additional recommendation is due based on TWCC Medical Fee Guidelines/Rules."

2. The HCPCS Level II CPT Code E1399 is used for billing of miscellaneous DME, when a specific code for the DME is not available. Reimbursement for DME billed using this code will vary, as it does not have an established value set by the Centers for Medicare and Medicaid Services (CMS) or the Division.

3. For date(s) of service on or after August 1, 2003, Division Rule 134.202(b), 2002 Medical Fee Guideline, requires health care providers to apply the Medicare program reimbursement methodologies for coding, billing, reporting and reimbursement of professional services, including DME. CMS partnered with the Statistical Analysis Durable Medical Equipment Regional Carrier (SADMERC) to provide guidance to manufacturers and suppliers on the proper use of the Healthcare Common Procedure Coding System (HCPCS), the means by which durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) are identified for Medicare billing. Manufacturers and suppliers are instructed by CMS and through the Durable Medical Equipment Regional Carrier (DMERC) supplier manual and advisories to contact the SADMERC HCPCS Unit to obtain proper billing codes for DMEPOS items. (Reference to website: http://www.cms.hhs.gov/DMEPOSFeeSched/LSDMEPOSFEE/list.asp)

SADMERC representatives have determined that the RS4i is properly coded using CPT code E1399. According to SADMERC, no other more specific HCPCS billing code accurately describes this piece of equipment. With this decision, SADMERC established that the RS4i is not the same as a transcutaneous electrical nerve stimulator (TENS) unit. However, according to industry experts and product information, the RS4i is substantially similar to muscle stimulator such as E0745, with features such as programmable treatment plans, four channels with up to eight pads to cover larger areas.

4. According to Division Rule 134.202 (c)(6), for products and services which CMS or the Division does not have an established reimbursement value; the carrier shall assign a relative value. The relative value may be based on nationally recognized published relative value studies, published commission medical dispute decisions, and values assigned for services involving similar work or resource commitment.

5. The Requestor did not provide evidence to indicate how a relative value was selected.

6. The Respondent did not provide evidence indicating how the relative value was selected.

7. RS Medical has submitted product features and states that due to the unique features of the product as compared to other muscle stimulators, higher reimbursement is warranted. RS Medical also provided EOB(s) from other carriers who have reimbursed the full amount billed at $250.00 for monthly rental. The EOB(s) provided by RS Medical illustrate the highest amount paid by carriers, but do not show the full range of reimbursements made by all carriers. RS Medical seeks 100% of its billed charges.

8. MDR does not concur that reimbursement of 100% of the provider charges for the RS4i is fair and reasonable. Allowing reimbursement of 100% of charges gives the manufacturer sole control over the amount billed and reimbursed and therefore, does not achieve effective medical cost control as required by Texas Labor Code §413.011. Cost information is used in a variety of reimbursement systems to determine fair and reasonable reimbursement (e.g. CMS's Durable Medical Equipment Prosthetics, Orthotics, and Supplies (DMEPOS) fee schedule, and other Division fee guidelines) However, no cost information was submitted.

9. Because the RS4i is substantially similar to a muscular stimulator unit (E0745, Neuromuscular Stimulator) the Division considered various established values for the E0745 from a variety of sources to determine a fair and reasonable reimbursement for monthly rental of the RS4i. Using commercially available data on average commercial reimbursement rates for the E0745 code, the Divisions workers' compensation carrier reimbursement paid for code E0745 for dates of service in 2004, and 125% of the 2004 CMS assigned relative value for code E0745, the Division determined a reimbursement range of $101.02 to $182.16 for this code. The midpoint of that range, $141.59 per month was determined to be a fair and reasonable reimbursement for rental of the RS4i. Reimbursement higher than the DMEPOS E0745 Neuromuscular Stimulator rate x 125% is used to recognize the unique features of the RS4i, as described above in #3.

The Respondent made a total payment in the amount of $223.78 ($111.89 X 2). Therefore, the difference between the amount paid per month and $141.59 is due to the Requestor in the amount of $ 59.40 ($29.70 X 2).

B. The disputed issue: Whether payment is due the Requestor for DME supplies known as A4595 (A4556).

1. The Requestor failed to submit reconsiderations required for CPT A4595. According to Rule 133.307 (e)(2)(A) "a copy of all medical bill(s) as originally submitted to the carrier for reconsideration in accordance with §133.304 (k). The request for reconsideration shall: (1) reference the original bill and include the same billing codes, date(s) of service, and dollar amounts as the original bill;" Therefore the filing for the date of service 4/29/04 did not meet the requirement under Rule §133.304, for MDR review.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. §413.011(a-d)
28 Texas Administrative Code Sec. §134.1
28 Texas Administrative Code Sec. §134.202 (b) & (c)(6)
28 Texas Administrative Code Sec. §§134.304, 133.307

PART VII: DIVISION DECISION AND ORDER

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 entitled to additional reimbursement in the amount of $59.40 plus all accrued interest due at the time of payment to the Requestor within 30 days receipt of this Order.

Ordered by:

	David B. Brown	7/31/06
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.