

# MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

## Retrospective Medical Necessity Dispute

### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> (X) HCP ( ) IE ( ) IC	<b>Response Timely Filed?</b> (X) Yes ( ) No
Requestor's Name and Address Pain & Recovery Clinics of Houston C/O Bose Consulting, LLC P O BOX 550496 Houston, Texas 77255	MDR Tracking No.: M5-05-2187-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address  American Home Assurance Company Box 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

### PART II: SUMMARY OF DISPUTE AND FINDINGS

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
07-07-04	08-05-04	99212, 97110, 97112, 98940, 97032 and 97140	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

### PART III: 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 Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division 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** prevail on the disputed medical necessity issues.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 05-12-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

Review of CPT code 97112 date of service 07-23-04 revealed that neither party submitted an EOB. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for an EOB. Reimbursement is recommended in the amount of **\$36.75**.

Review of CPT code 99080 date of service 07-28-04 revealed that neither party submitted an EOB. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for an EOB. Reimbursement is recommended in the amount of **\$85.50**.

**PART IV: COMMISSION DECISION**

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is entitled to a refund of the paid IRO fee in the amount of \$460.00. The Division hereby **ORDERS** the insurance carrier to remit this amount and the appropriate amount for the services in dispute totaling \$3,101.26 consistent with the applicable fee guidelines, plus all accrued interest due at the time of payment, to the Requestor within 20-days of receipt of this Order.

Findings and Decision by:

06-10-05

Authorized Signature

Typed Name

Date of Decision

Order by:

06-10-05

Authorized Signature

Typed Name

Date of Order

**PART V: INSURANCE CARRIER DELIVERY CERTIFICATION**

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: \_\_\_\_\_ Date: \_\_\_\_\_

**PART VI: YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of the Decision and has a right to request a hearing. A request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk within 20 (twenty) days of your receipt of this decision (28 Texas Administrative Code § 148.3). This Decision was mailed to the health care provider and placed in the Austin Representatives box on \_\_\_\_\_. This Decision is deemed received by you five days after it was mailed and the first working day after the date the Decision was placed in the Austin Representative's box (28 Texas Administrative Code § 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas, 78744 or faxed to (512) 804-4011. A copy of this Decision should be attached to the request.

The party appealing the Division's Decision shall deliver a copy of their written request for a hearing to the opposing party involved in the dispute.

**Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**



7600 Chevy Chase, Suite 400  
Austin, Texas 78752  
Phone: (512) 371-8100  
Fax: (800) 580-3123

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** June 9, 2005

**To The Attention Of:** TWCC  
7551 Metro Center Drive, Suite 100, MS-48  
Austin, TX 78744-16091

**RE: Injured Worker:** \_\_\_\_\_  
**MDR Tracking #:** M5-05-2187-01  
**IRO Certificate #:** 5242

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### **Submitted by Requester:**

- Independent Medical Evaluation dated 6/21/04 from Donald Henderson Nowlin, M.D.
- Position of Statement from Bose Consulting
- MRI of the Lumbar Spine dated 9/19/03 from Universal West Loop MRI & Diagnostic Center
- MRI of the Cervical Spine dated 9/19/03 from Universal West Loop MRI & Diagnostic Center
- EMG/NCV dated 9/29/03 from United Neurology
- Initial Medical Report from United Neurology, M Atheri, M.D.
- Functional Capacity Evaluation dated 2/4/04 from Optimum Medical Testing
- Functional Capacity Evaluation dated 8/6/04 from Universal Evaluators
- CT Examination of the Lumbar Spine with Contrast dated 2/25/04 from Diagnostic CT Scan-Nuclear Medicine-Ultrasound
- Evaluation Report dated 1/9/04 from Gulf Coast Spine, Howard Cotler, M.D.
- Evaluation Report dates 4/23/04 and 7/27/04 from Houston Spine Surgery, Mark MacDonnell, M.D.
- Correspondence Letter to William Hicks, D.C. from Mark MacDonnell, M.D. dated 4/23/04
- Initial Consultation Report dated 1/22/04 from S. Ali Mohamed, M.D.
- Follow-up Notes dates 2/5/04-7/22/04 from S. Ali Mohamed, M.D.
- Reconsideration Letter dated 7/21/04 from S. Ali Mohamed, M.D.
- Operative Report dated 1/28/04 and 3/24/04 from Houston Community Hospital
- Discography Report dated 2/25/04 from Houston Community Hospital

- Designated Doctor Evaluation dated 7/29/04 from Van Q. Tran, D.O.
- Comprehension Pain Consultation dated 1/6/04 from Andrew McKay, M.D.
- Follow-up Report dated 1/13/04 from Andrew McKay, M.D.
- Initial Therapy Report dated 1/2/04 from Pain & Recovery Clinics of Houston, Lee Nickel, LPT
- Letter of Clarification dated 8/25/04 from William Hicks, D.C.
- Correspondence Letter from William Hicks, D.C. to AIG Claims dated 7/8/04
- Subsequent Medical Report dated 2/11/04 and 6/28/04 Pain & Recovery Clinics of Houston, Lee Nickel, LPT
- Initial Medical Report dated 12/22/03 Pain & Recovery Clinics of Houston
- Daily Progress Notes dates 7/7/04-8/5/04 Pain & Recovery Clinics of Houston

**Submitted by Respondent:**

- Correspondence Letter dated 4/25/05 from Flahive, Ogden & Latson
- MDR Request and Response
- Table of Disputed Services dates 7/7/04-8/5/04
- Independent Medical Evaluation Report dated 6/15/04 from Donald Nowlin, M.D.
- Impairment Evaluation dated 12/22/04 from Wayne Parks, D.C.
- Correspondence Letter dated 7/8/04 from William Hick, D.C.
- Functional Capacity Evaluation dated 8/6/04 from Universal Medical Evaluators
- TWCC 69 from Van Q. Tran, D.O
- Letter of Medical Necessity from Gulf Coast durable medical equipment
- Daily Progress Notes from Pain & Recovery Clinics of Houston dates 12/22/03-9/16/04
- Follow-up Notes from S. Ali Mohamed, M.D. dates 1/22/04-8/26/04
- Letter of Clarification from Van Q. Tran, D.O. dated 7/29/04
- Peer Review dated 9/23/04 from Casey Cochran, D.O.
- Designated Doctor Evaluation dated 7/29/04 from Van Q. Tran, D.O.
- DME Prescription Letter of Medical Necessity
- Lumbar Spine Radiograph Report dated 7/27/04 from Mark MacDonnell, M.D.
- Office Visit Note dated 7/27/04 from Mark MacDonnell, M.D.
- Bose Consulting, LLC, Letter dated 10/31/04 for dates of service 7/704-8/5/04
- Dynacare Medical and Chiropractic Clinic Progress Notes dates 10/20/03-12/18/03
- Medical History and Physical Examination dated 10/17/04 from Dynacare Medical and Chiropractic Clinic
- Narrative Report dated 12/30/03 from Dynacare Medical and Chiropractic Clinic, Ndon Emah, D.C.
- TWCC 73 from Dynacare Medical and Chiropractic Clinic, Ndon Emah, D.C. dates 10/17/03-11/17/03
- Appeal dated 7/15/04 from Professional Review, Inc, Geoffrey Ndeto, M.D.
- Request for Pre-Cert dated 7/6/04
- CT Examination of the Lumbar Spine with Contrast dated 2/25/04
- MRI of the Lumbar Spine dated 9/19/03 from Universal West Loop MRI & Diagnostic Center
- Functional Capacity Evaluation dated 6/21/04 from Work Evaluation Specialist
- Evaluation Report dated 9/3/03 from WilCrest Rehab Clinic, David Durkop, D.C.
- TWCC 73 dates 9/10/03-9/15/03 from WilCrest Rehab Clinic, David Durkop, D.C.
- Functional Capacity Evaluation dated 2/4/04 from Optimum Medical Testing
- Operative Report dated 2/18/04 from Houston Community Hospital
- Comprehensive Pain Consult dated 12/30/03 from Andrew McKay, M.D.
- Follow-up Note dated 1/15/04 from Andrew McKay, M.D.
- St. Luke Episcopal Hospital Emergency Room Notes dated 4/7/04
- Surgical Pathology Report dated 3/23/04 from Houston Community Hospital
- Follow-up Notes dates 11/17/03-12/11/03 from M. Athari, M.D.
- Dynacare Medical and Chiropractic Clinic Doctors Orders
- SOAP Noted from Wilcrest Rehab Clinic dates 9/4/03-10/16/03

- Operative Report dated 3/24/04 from Houston Community Hospital
- Orthopedic Evaluation dated 1/9/04 from Gulf Coast Spine Care, Howard Cotler, M.D.
- Functional Capacity Evaluation dated 6/21/04
- Reconsideration Letter dated 7/21/04 from The Pain Institute of Texas
- EMG/NCV report dated 9/25/03 from United Neurology

### **Clinical History**

I have had the opportunity to review the medical records in the above-mentioned case for the purpose of an Independent Review. Ms. \_\_\_ is a 53 year-old female who was injured while at work with \_\_\_ on \_\_\_. The claimant alleges that she tripped over some boxes injuring her left knee, neck and low back. The claimant was initially evaluated by David Duke, D.C. whose treatment consisted of physical therapy and passive modalities. The claimant had a MRI of the cervical and lumbar spine performed on 9/19/03 at Universal West Loop MRI & Diagnostic Center. The MRI of the cervical spine revealed at C2/C3 a 3mm left posterior protrusion that mildly indents the sac and mildly narrows the left foramen. The C3/C4, C4/C5, C5/C6, C6/C7, T2/T3 and T3/T4 levels reveal 2-3 mm posterior protrusions that mildly indents the sac with no central canal stenosis or remarkable foraminal narrowing. The MRI of the lumbar spine revealed at L4/L5 a 3mm broad base posterior protrusion that mildly indents the sac with no central canal stenosis or remarkable foraminal narrowing. The L5/S1 level has a 3mm broad base posterior protrusion that abuts the sac with no central canal stenosis or remarkable foraminal narrowing. The claimant had nerve conduction studies performed on 9/29/03 at United Neurology, which revealed evidence of right S1 radiculopathy. The claimant had a CT scan of the lumbar spine with contrast on 2/25/04, which revealed abnormal disc morphology with annular disc bulge at L4/L5 and annular disc tear at L5/S1. The claimant had an FCE performed on 2/4/04 from Optimum Medical Testing, which revealed that the claimant current physical demand level was **Sedentary**. The claimant underwent surgery on 3/24/04, which was performed by Ali Mohamed, M.D. Dr. Mohamed performed percutaneous discectomy of the L4/L5 and L5/S1 disc. The claimant has been under the care and direction of William Hicks, D.C. since 12/22/03 whose treatment has consisted of chiropractic manipulation with various physiotherapy modalities and active rehabilitation. The claimant had an FCE performed 8/6/04 at Universal Medical Evaluators and determined the claimant's current physical demand level at **Sedentary**. The claimant was determined at MMI by designated doctor Van Q. Tran, D.O. on 7/29/04.

### **Requested Service(s)**

99212 office visit, 97110 therapeutic exercises, 97112 neuromuscular re-education, 98940 chiropractic manipulation treatment-spinal, 97032 electrical stimulation, 97140 manual therapy technique for dates of service 7/7/04-8/5/04.

### **Decision**

I disagree with the insurance carrier and find that 99212 office visit, 97110 therapeutic exercises, 97112 neuromuscular re-education, 98940 chiropractic manipulation treatment-spinal, 97032 electrical stimulation, 97140 manual therapy technique is medically reasonable and necessary with regards to the above referenced claimant.

### **Rationale/Basis for Decision**

The claimant suffered a left knee injury as well as a lumbar disc injury as a result of the compensable event of \_\_\_, which required surgical intervention on 3/24/04. It appears, based on the provided medical documentation, that the claimant didn't start post-surgical rehabilitation until 4/15/04. Official Disability Guidelines 10<sup>th</sup> Edition is a guideline of specific conditions, which uses, as a major source, the "Mercy Guidelines", the consensus document created by the American Chiropractic Association in conjunction with the Congress of State Chiropractic Associations, entitled Guidelines for Chiropractic Quality Assurance and Practice Parameters, Proceedings of the Mercy Center Consensus Conference. The Official Disability Guideline 10<sup>th</sup> Edition allows up to 18 chiropractic treatment or 34 physical therapy visits over 16 weeks

for post-surgical lumbar disc injury with evidence of functional improvement and a gradual fade to a home treatment program. Additional treatment beyond 8/6/04 is not reasonable and necessary and would be considered excessive.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 9<sup>th</sup> day of June 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder