

THIS DECISION HAS BEEN APPEALED. THE
 FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
 SOAH DOCKET NO. 453-05-9251.M5

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) HCP () IE () IC	Response Timely Filed? () Yes (X) No
Requestor's Name and Address Eric A. VanderWerff DC 615 N O'Connor Rd Suite 12 Irving TX 75061	MDR Tracking No.: M5-05-2297-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Rep Box # 19 American Home Assurance c/o FOL	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		
6-21-04	7-15-04	97110, 97140-59, 98941, 97112	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8-17-04	1-27-05	97110, 97140-59, 98941, 97112, 97150	<input checked="" 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 **prevailed** on the disputed medical necessity issues. The amount due from the carrier for the medical necessity issues equals \$14,206.45 (this total does not include separate reimbursement for code 97112 since it is global to 98941 and this total only includes 1 unit of code 97150 since it is not a timed code).

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. The medical necessity issues listed above were found to be medically necessary. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 5-31-05 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.

Codes 97110, 97140-59, 98941, and 97112 billed on dates of service 7-19-04 to 8-11-04 had no EOBs submitted by either party. The requestor submitted convincing evidence of carrier receipt of the request. Therefore, these dates of service will be reviewed per the 2002 Medical Fee Guideline.

Code 97112 is a component of 98941. Separate payment for 97112 may be considered justifiable if a modifier is used appropriately. The requestor did not bill with a modifier, therefore, no separate reimbursement recommended.

Code 97140 is a component of 98941. Separate payment for 97140 may be considered justifiable if a modifier is used appropriately. The requestor billed with an appropriate modifier; therefore, reimbursement is recommended for $\$27.30 \times 125\% = \34.13×2 units each day = $\$68.26 \times 11$ days = $\$750.86$.

Code 98941, recommend reimbursement of $\$46.49 \times 11$ days = $\$511.39$.

Code 97110, recommend reimbursement of $\$28.55 \times 125\% = \35.69×3 units = $\$107.07 \times 11$ days = $\$1,177.77$.

The amount due from the carrier for the fee issues is $\$2,440.02$.

PART IV: COMMISSION DECISION AND ORDER

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 $\$14,206.45 + \$2,440.02 = \$16,646.47$ plus all accrued interest due at the time of payment to the Requestor within 20 days of receipt of this Order.

Findings & Decision by:

_____	_____	8-1-05
Authorized Signature	Typed Name	Date

Ordered by:

_____	Associate Director	8-1-05
Authorized Signature	Typed Name	Date

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 the TWCC Chief Clerk of Proceedings/Appeals Clerk must receive it within 20 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 Representative's 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 en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.



**PROFESSIONAL
ASSOCIATES**

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:	
IRO CASE NUMBER:	M5-05-2297-01
NAME OF REQUESTOR:	Eric VanderWerff, D.C.
NAME OF PROVIDER:	Eric VanderWerff, D.C.
REVIEWED BY:	Board Certified in Chiropractics
IRO CERTIFICATION NO:	IRO 5288
DATE OF REPORT:	07/13/05 (REVISED 07/20/05)

Dear Dr. VanderWerff:

Professional Associates has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO) (#IRO5288). Texas Insurance Code Article 21.58C, effective September 1, 1997, allows a patient, in the event of a life-threatening condition or after

having completed the utilization review agent's internal process, to appeal an adverse determination by requesting an independent review by an IRO.

In accordance with the requirement for Texas Workers' Compensation Commission (TWCC) to randomly assign cases to IROs, TWCC has assigned your case to Professional Associates for an independent review. The reviewing physician selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the reviewing physician reviewed 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.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by a physician reviewer who is Board Certified in the area of Chiropractics and is currently listed on the TWCC Approved Doctor List.

I am the Secretary and General Counsel of Professional Associates and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for determination prior to referral to the Independent Review Organization.

REVIEWER REPORT

I have reviewed the records forwarded on the above patient and have answered the questions submitted.

Information Provided for Review:

The Employer's First Report of Injury or Illness dated ____.

An MRI of the lumbar spine dated 11/19/01 that was interpreted by Bruce Cheatham, M.D.

An initial report from Millennium Chiropractic from Dr. VanderWerff.

A treatment plan summary from Dr. VanderWerff dated 05/13/04.

Daily chiropractic notes from Dr. VanderWerff dated 05/24/04, 05/25/04, 05/26/04, and 05/27/04.

An NCV study of the bilateral lower extremity on 05/28/04, which was interpreted by Ruby Saulog, M.D.

An MRI of the lumbar spine that was interpreted by William C. Sory, M.D. on 06/02/04.

An electrodiagnostic study from Sherine Boyd Reno, M.D. dated 06/17/04.

A Behavioral Health Evaluation dated 06/24/04 from Jacqueline Spiller, M.A. and Sandra Young-Whigham, L.M.S.W.-A.C.P.

Continued chiropractic treatment with Dr. VanderWerff on 06/28/04, 06/29/04, 06/30/04, 07/01/04, 08/30/04, 08/31/04, 09/01/04, and 09/02/04.

A Required Medical Evaluation (RME) by R. Michael Hamby, D.C. on 08/16/04.

An Independent Medical Evaluation (IME) by Dr. Reno dated 09/08/04.

A response to the RME dated 09/15/04 from Dr. VanderWerff.

An MRI of the lumbar spine dated 09/21/04, which was interpreted by Ellis Robertson, M.D.

Continued chiropractic treatment with Dr. VanderWerff from 10/18/04 through 02/24/05 for a total of 16 visits.

Weekly work hardening progress reports from 01/03/05 through 03/04/05.

Another IME performed by Dr. Reno on 03/07/05.

A Physical Performance Evaluation (PPE) dated 03/09/05 from Adrian Olivares, D.C.

Continued chiropractic treatment with Dr. VanderWerff on 03/31/05 and 04/07/05.

A case summary dated 06/24/05 from Dr. VanderWerff.

Clinical History Summarized:

The Employer's First Report of Injury or Illness stated the claimant strained his knee(s) from normal body movement on _____. An MRI of the lumbar spine dated 11/19/01 revealed lordosis straightening possibly due to musculature pain or spasm and a 2 mm. right paracentral discal substance herniation at L5-S1 that contacted, but did not indent the anterior thecal sac. Dr. VanderWerff evaluated the claimant on 05/12/04 and it was noted the claimant was working as a stocker at _____ on _____ when he injured his left leg and low back. He was stocking 150 cases alone and lifting heavy boxes continuously for two hours. The claimant was taken off of work, but was allowed to work 20 hours a week at _____ in the deli. On 05/13/04, Dr. VanderWerff provided a treatment plan consisting of chiropractic adjustments, joint mobilization, myofascial therapy, lumbar traction, rehabilitative exercises, electrical stimulation, and neuromuscular reeducation three to four times a week for eight weeks. The claimant attended chiropractic therapy from 05/24/04 through 09/02/04 for a total of 12 weeks. An electrodiagnostic study on 05/28/04 revealed mild sensory demyelinating polyneuropathy on both lower extremities and there was no evidence of lumbar radiculopathy. An MRI on 06/02/04 was normal. A bilateral lower extremity EMG/NCV study on 06/17/04 revealed left L5-S1 radiculopathy. A behavioral health evaluation was performed on 06/24/04 by Jacqueline Spiller, M.A. and Sandra Young-Whigham, L.M.S.W.-A.C.P. Work hardening and possible individual therapy were recommended. From 06/28/04 through 09/02/04, the claimant attended chiropractic therapy with Dr. VanderWerff for a total of eight visits. Dr. Hamby performed an RME on 08/16/04. He felt the structural damage in the lumbosacral spine had resolved and he could return to work without restrictions. Dr. Reno performed an IME on 09/08/04. She anticipated the claimant would reach Maximum Medical Improvement (MMI) on 11/08/04 and felt he required four to six weeks of work hardening. On 09/15/04, Dr. VanderWerff addressed a response to Dr. Hamby's RME. He stated he profoundly disagreed with Dr. Hamby's RME on

the claimant. An MRI of the lumbar spine on 09/21/04 revealed mild facet arthropathy at L5-S1 and L4-L5 with similar findings at L3-L4. The claimant continued in chiropractic therapy with Dr. VanderWerff from 10/18/04 through 02/24/05 for a total of 15 visits. The claimant attended work hardening at Dr. VanderWerff's office from 01/03/05 through 03/04/05. Dr. Reno

performed another IME on 03/07/05. She felt the claimant had reached MMI on 03/07/05 with a 10% whole person impairment rating. The claimant underwent an PPE on 03/09/05 with Adrian Olivares, D.C. and he qualified for the occasional heavy very heavy physical demand level. On 03/31/05 and 04/07/05, the claimant received myofascial therapy and joint mobilization. On 06/24/05, Dr. VanderWerff provided a case summary on the claimant's case and care.

Disputed Services:

Therapeutic exercises, manual therapy, chiropractic manipulations, neuromuscular reeducation, and group therapeutic procedures performed by Eric VanderWerff, D.C. from 06/21/04 through 01/27/05.

Decision:

Yes. The therapeutic exercises, manual therapy, chiropractic manipulations, neuromuscular reeducation, and group therapeutic performed by Dr. VanderWerff from 06/21/04 through 01/27/05 were appropriate.

Rationale/Basis for Decision:

The treatment provided to the claimant satisfies the qualifications of Section 408.021(31) of the Texas Labor Code, which only substantiates the need for care which cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the ability of the employee to return to or retain employment. Based upon review of the documentation, the claimant suffered from lumbar radiculitis at L5-S1, as demonstrated by EMG/NCV testing. Based upon the supplied documentation, the claimant's condition appeared to progress at a reasonable pace under the treatment plan provided by Dr. VanderWerff. Therefore, based upon the supplied documentation, the above mention services provided by Dr. VanderWerff between 06/21/04 and 01/27/05 did satisfy the qualifications of Section 408.021(31) and were reasonable and necessary as related to the original injury.

This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician consulting for Professional Associates is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this 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 twenty (20) calendar days** of your receipt of this decision (28 Texas Administrative Code 148.3).

This decision is deemed received by you **five (5) calendar days** after it was mailed and the first working day after the date this decision was placed in the carrier representative's box (28 Texas Administrative Code 102.5 (d)). A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P. O. Box 17787
Austin, TX 78744

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

I hereby verify that a copy of this Independent Review Organization's decision was sent to TWCC via facsimile or U.S. Postal Service on 07/14/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel