

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 4-25-05.

The IRO reviewed massage therapy, chiropractic manipulative treatment-spinal, office visits, neuromuscular re-education, therapeutic activities, and therapeutic exercises for 6-18-04 through 11-3-04 that were denied by the insurance carrier for medical necessity.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the massage therapy, chiropractic manipulative treatment-spinal, office visits, neuromuscular re-education, therapeutic activities, and therapeutic exercises for 6-18-04 through 11-3-04 were not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved.

On 5-13-05 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.

CPT code 97024 on 6-18-04 was denied by the carrier as "L – not Treating Doctor approved treatment." Per a Benefit Review Conference on 8-24-04 Dr. Mordecai is the injured worker's treating doctor. **Recommend reimbursement of \$6.99.**

CPT code 97112 on 6-18-04 and 7-21-04 was denied by the carrier as "L – not Treating Doctor approved treatment." Per a Benefit Review Conference on 8-24-04, Dr. Mordecai is the injured worker's treating doctor. **Recommend reimbursement of \$68.60.**

CPT code G0283 on 6-18-04 was denied by the carrier as "L – not Treating Doctor approved treatment." Per a Benefit Review Conference on 8-24-04, Dr. Mordecai is the injured worker's treating doctor. **Recommend reimbursement of \$13.41.**

CPT code 97124 on 7-21-04 was denied by the carrier as "L – not Treating Doctor approved treatment." Per a Benefit Review Conference on 8-24-04, Dr. Mordecai is the injured worker's treating doctor. **Recommend reimbursement of \$26.28.**

CPT code 97110 on 6-18-04 and 7-20-04 was denied by the carrier as L – not Treating Doctor approved treatment. Per a Benefit Review Conference on 8-24-04, Dr. Mordecai is the injured worker's treating doctor. Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of

this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. **Reimbursement not recommended.**

CPT code 97124-GP on 8-6-04, 8-9-04, 8-13-04, 8-18-04, 8-25-04 and 8-30-04 was denied by the carrier as "F-Fee Guideline MAR reduction" and "R79-CCI Standards of Medical Surgical Practice." Per Ingenix Encoder Pro "CPT code 97124 is considered by Medicare to be a component procedure of CPT code 98940. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be considered justifiable if a modifier is used appropriately." **Recommend reimbursement of \$157.68.**

CPT code 97112-GP on 8-9-04, 8-13-04, 8-18-04, 8-25-04 and 8-30-04 was denied by the carrier as "F-Fee Guideline MAR reduction" and "R79-CCI Standards of Medical Surgical Practice." Per Ingenix Encoder Pro "CPT code 97112 is considered by Medicare to be a component procedure of CPT code 98940. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be considered justifiable if a modifier is used appropriately." **Recommend reimbursement of \$171.50.**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees totaling \$444.16 from 6-18-04 through 8-30-04 outlined above as follows: In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Decision and Order is hereby issued this 8<sup>th</sup> day of June 2005.

Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision



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

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** May 27, 2005

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

**RE: Injured Worker:**  
**MDR Tracking #:** M5-05-2326-01  
**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:**

- Employer Request to Change Treating Doctors dated 5/12/04 to Micah Mordecai, D.C.
- Medical Dispute Resolution dated 8/31/04
- Initial Medical Narrative Report dated 5/18/04 from Micah Mordecai, D.C.
- Initial Interview dated 6/7/04 from Tatia Miller, LPC
- MRI of the Lumbar Spine dated 7/22/04 from Advance Medical Imaging
- Consultation Report dated 8/11/04 from Adam Borowski, M.D.
- Subsequent Medical Narrative Report dated 8/5/04 from Micah Mordecai, D.C.
- RME Report dated 9/7/04 from Occupational Orthopaedic Specialist

- Medical Review dated 9/22/04 Paul Strube, D.C.
- Designated Doctor Report dated 6/24/04 Gilbert Mayorga, M.D.
- Designated Doctor Report dated 10/7/04 Gilbert Mayorga, M.D.
- Daily Report Notes dates 5/17/04-11/3/04

**Submitted by Respondent:**

- Correspondence Letter dated 5/19/05 from Harris and Harris Attorney at Law
- Designated Doctor Report dated 2/1/05 Gilbert Mayorga, M.D.
- MRI of the Lumbar Spine dated 7/22/04 from Advance Medical Imaging
- RME Report dated 9/7/04 from Occupational Orthopaedic Specialist
- Medical Review dated 9/22/04 Paul Strube, D.C.
- Daily Report Notes dated 6/24/04-8/17/04

**Clinical History**

Mr. \_\_\_ is a 36-year-old male who injured his low back while working for .

The claimant claims while at work on \_\_\_ he was performing his job as an automobile detailer when he slipped and fell from a stool while detailing an automobile injuring his lower back. Krisoffer D. Pepperell, M.D. initially evaluated the claimant at Providence Health Center Emergency Room on \_\_\_\_\_ where x-rays of the lumbar spine were performed and prescription medication was given. Dr. Pepperell diagnosed the claimant as having a lumbar muscle strain. The claimant continued to complain of low back complaints and sought care at Scott and White Clinic under the supervision of Mark Hinds, M.D. who prescribed medications and physical therapy. The claimant was released to work with restrictions on 4/9/04 through 4/21/04. Dr. Hind's physician's assistant on 4/21/04 evaluated the claimant and report the claimant was doing quite well and anticipated the claimant to be released from care in approximately 2 weeks. The claimant was released to full duty without restrictions on 5/7/04. The claimant changed treating doctors to Micah Mordecai, D.C. and was initially evaluated by Dr. Mordecai on 5/17/04 where the claimant rated his pain at 8-9 out of 10 max pain scale. Dr. Mordecai diagnosed the claimant with a lumbar sprain/strain and recommended the claimant participate in a home exercise program, chiropractic management with physiotherapy both passive and active. The claimant had a MRI of the lumbar spine performed on 7/22/04 from Advanced Medical Imaging. The MRI of the lumbar spine revealed a congenital or developmentally small spinal canal with very mild spondylosis and facet arthrosis further narrows the canal and foramen at L4/L5. A discreet disc herniation is not identified. The claimant continued complaints of low back pain which he rates his pain at an 8 out of 10 maximum based on the subsequent report dated 8/5/04 by Dr. Mordecai. The claimant was referred to Adam Borowski, M.D. who recommends the claimant continue physical therapy with possible lumbar epidural steroid injections, which were performed. The claimant was evaluated by designated doctor, Gilbert Mayorga, M.D., on 6/24/04 and 10/7/04 who determined that the claimant was not at maximum medical improvement. The claimant had a Required Medical

Evaluation performed on 9/7/04 by William Blair, M.D. who determined that the claimant has attained maximum medical improvement with the claimants physical demand level in the Medium category. The claimant was determined at maximum medical improvement on 2/1/05 by designated doctor, Gilbert Mayorga, M.D.

**Requested Service(s)**

97124 massage therapy, 98940 chiropractic manipulative treatment – spinal, 99212 office visit, 97112 neuromuscular re-education, 97530 therapeutic activities, 97110 therapeutic exercises for dates of service 6/18/04 to 11/3/04

**Decision**

I agree with the carrier that the services in dispute were not medically necessary.

**Rationale/Basis for Decision**

I form this decision using the Official Disability Guidelines 10<sup>th</sup> Edition which is a guideline of specific conditions which uses a major source being 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 a trial of up to six chiropractic treatments over a 2 week period and with evidence of objective functional improvement up to 18-chiropractic treatments over a 6-8 week period for an apparent soft tissue injury to the lumbar spine. Based on the provided documentation including the daily report notes dates 5/17/04-11/3/04 the claimant continued to subjectively complain of moderate to severe low back pain with no evidence of objective functional improvement. It is from this documentation and the Official Disability Guidelines that I form my decision.

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 27<sup>th</sup> day of May 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder