

## 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  Suhail Al-Sahli 1210A NASA Rd 1 Houston TX 77058	MDR Tracking No.: M5-05-2638-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address  American Safety Casualty Ins 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		
6-21-04	1-14-05	97112, 97032, 97116, 90801, 99082, 99212, 99213, 97110, 97012, 97124, 99070	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
			<input type="checkbox"/> Yes <input checked="" 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 **not** prevail on the disputed medical necessity issues.

Rule 134.202 (b) states, "For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section. Rule 133.1(a)(3)(C) states that a complete medical bill includes correct billing codes from Commission fee guidelines in effect on the date of service.

The requestor billed code 90889-RPR for date of service 6-21-04. The modifier -RPR is invalid per Rule 134.202 (e) (2) and will not be reviewed. Therefore, no reimbursement can be recommended.

The requestor billed codes 98940-25 and 98941-25 for dates of service 7-30-04, 8-13-04, 8-27-04, 10-22-04, 10-27-04, 11-16-04, 11-19-04, and 1-14-05. The modifier -25 is invalid for these codes per Rule 134.202 (e) (2) and will not be reviewed. Therefore, no reimbursement can be recommended.

**PART IV: COMMISSION DECISION**

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

8-24-05

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**

If you are unhappy with all or part of this decision, you have the right to appeal the decision. Those who wish to appeal decisions that were issued during the month of August 2005, should be aware of changes to the appeals process, which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH 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.

Beginning September 1, 2005, appeals of medical dispute resolution 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.

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



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:**  
**IRO CASE NUMBER:** M5-05-2638-01  
**NAME OF REQUESTOR:** Suhail Al-Sahli, D.C.  
**NAME OF PROVIDER:** Suhail Al-Sahli, D.C.  
**REVIEWED BY:** Board Certified in Chiropractics  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 08/12/05

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. determination, and any documentation and written information submitted in support of the appeal.

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**

### **Information Provided for Review:**

A clinical interview at Nassau Bay Rehab dated 04/22/03 from Sari Meltzer, Ph.D.

A Designated Doctor Evaluation dated 06/23/03 by D.P. Sunkara, M.D.

Treatment with Suhail L. Al-Sahli, D.C. dated 08/20/03, 09/15/03, 09/18/03, 10/24/03, 10/27/03, 11/07/03, 11/20/03, 12/03/03, 12/05/03, 12/16/03, 12/30/03, 01/02/04, 01/15/04, and 01/16/04

A psychological evaluation dated 09/25/03 from Dr. Meltzer and Patty Olachea, M.A.

Exercise sheets dated 10/06/03 through 10/16/03 from Nassau Bay Rehab from an unknown provider (no name or signature was available)

A work hardening weekly team conference dated 10/08/03 through 10/15/03 from Hanna Francis, D.P.M., Dr. Meltzer, and Ronald Recio, a rehab technician

An additional work hardening weekly team conference from 10/16/03 through 10/22/03 with the same providers

A treatment summary dated 12/18/03 from Ms. Olachea and Dr. Meltzer from Nassau Bay Rehab

An preauthorization notice dated 01/07/04 from Genex

An evaluation with Rezik Saqer, M.D., at Texas Pain Solutions

Continued treatment with Dr. Al-Sahli on 06/11/04, 06/21/04, 06/25/04, 07/27/04, 07/30/04, 08/13/04, 08/27/04, 09/10/04, 09/24/04, 10/22/04, 10/27/04, 11/16/04, and 11/19/04

Additional follow-up visits with Dr. Saqer dated 06/25/04, 07/30/04, 08/27/04, 09/24/04, 10/22/04, 11/19/04, and 12/17/04

Additional treatment notes with Dr. Al-Sahli dated 01/14/05

An additional follow-up visit with Dr. Saqer dated 02/11/05

A letter from Dr. Al-Sahli dated 05/16/05

A letter from Flahive, Ogden, and Latson, Attorneys at Law, P.C. dated 06/24/05 from Ronald Johnson

### **Clinical History Summarized:**

On 06/23/03, Dr. Sunkara, the Designated Doctor, placed the claimant at Maximum Medical Improvement (MMI) on 06/23/03 and assigned her a 5% whole person impairment rating. The claimant attended chiropractic treatment with Dr. Al-Sahli from 08/20/03 through 01/14/05. The claimant received kinetic activities, manipulation, joint mobilization, gait training,

neuromuscular reeducation, and therapeutic exercises. On 06/11/04, Dr. Saqer initially evaluated the claimant and diagnosed her with degenerative lumbar disc disease, chronic lumbosacral pain, myofascial pain syndrome, axial pain with involving of the SI and lower facets, and a mental condition affecting the physical character of the patient. Elavil, Hydrocodone, Soma, and Zoloft were prescribed. Dr. Al-Sahli addressed a letter dated 05/16/05 stating the enclosed information was more than sufficient evidence to prove the treatment on the dates of services in dispute was medically reasonable and necessary as the claimant was not at MMI and demonstrated definite benefit from the therapy during that timeframe. On 06/24/05, Mr. Johnson provided a summary of the carrier's position noting the dates of service on 06/01/04 through 01/14/05 were not medically reasonable or necessary.

**Disputed Services:**

Neuromuscular reeducation, electrical stimulation, gait training, psychiatric diagnostic interview, unusual travel, office visits, therapeutic exercises, mechanical traction, massage, and supplies from 06/21/04 through 01/14/05

**Decision:**

I agree with the insurance carrier. The services provided from 06/21/04 through 01/14/05 by Dr. Al-Sahli would not be reasonable or necessary.

**Rationale/Basis for Decision:**

No. The claimant was found to be at Maximum Medical Improvement (MMI) as of 06/23/03 and was given a 5% whole body percentage of permanent impairment. MMI designation means the claimant was not expected to make any further material recovery with regard to the injury. It does not necessarily mean the claimant would not make any further recovery. This places the burden of proof that further recovery was made as a result of ongoing care onto the provider performing such care. Based upon review of the documentation, there did not appear to be a treatment plan under the care of Dr. Al-Sahli with regard to the management of the claimant's case. Section 408.021 (31 of the Texas Labor Code) only substantiated the need for care, which (1) cures or relieves the effects naturally resulting from the compensable injury, (2) promotes recovery, or (3) enhances the ability of the employee to return to or retain employment. Based upon review of the documentation provided, treatment provided by Dr. Al-Sahli past 06/21/04 until 01/14/05, including neuromuscular reeducation, electrical stimulation, gait training, psychiatric diagnostic interview, unusual travel, office visits, therapeutic exercises, mechanical traction, massage, and supplies, did not qualify to meet the requirements of Section 408.021 (31 of the Texas Labor Code). Therefore, those services would not be considered to be medically reasonable and necessary.

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 08/12/05 from the office of Professional Associates.

Sincerely,  
Lisa Christian  
Secretary/General Counsel