



Texas Department of Insurance, Division of Workers' Compensation
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity

PART I: GENERAL INFORMATION

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier	
Requestor's Name and Address:	MDR Tracking No.: M5-05-2993-01
Horizon Health c/o Bose Consulting LLC PO Box 550496 Houston TX 77255	Claim No.:
	Injured Worker's Name:
Respondent's Name and Address:	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:
St Paul Fire & Marine Insurance Box 05	

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DWC-60 package, EOBs, CMS-1500s. Position summary: The treatment provided to the patient has been medically reasonable and necessary based on accepted medical protocols and Texas labor Code.

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Carrier did not respond.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
7-13-04 to 8-27-04	99212, 97110, 97140, G0283, 97112	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00

PART V: 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 Division Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), Medical Dispute Resolution assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The disputed dates of service 7-9-04 and 7-12-04 are untimely and ineligible for review per TWCC Rule 133.308(e)(1).

The Division has reviewed the enclosed IRO decision and determined that the requestor did **not** prevail on the disputed medical necessity issues.

Based on review of the disputed issues within the request, the 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 Medical Dispute Resolution.

Code 99080-73 was billed on date of service 8-9-04. Neither party submitted an EOB. The requestor submitted proof of request for an EOB. Per Rule 129.5, the work status report shall be filed at the time of an examination. The CMS-1500 does not indicate that an exam was performed on the same date as the work status report. Therefore, no reimbursement recommended.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 134.202, 129.5

PART VII: DIVISION DECISION

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 not entitled to additional reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

Medical Dispute Officer

11-22-05

Authorized Signature

Typed Name

Date

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.



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M5-05-2993-01
NAME OF REQUESTOR: Horizon Health
NAME OF PROVIDER: Carrie Schwartz, D.C.
REVIEWED BY: Licensed by the Texas State Board of Chiropractic Examiners
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 10/26/05 (REVISED 11/11/05)

Dear Horizon Health:

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 TDI-Division of Workers' Compensation (DWC) to randomly assign cases to IROs, DWC 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.

A physician reviewer who is licensed in Chiropractics and is currently listed on the DWC Approved Doctor List reviewed this case.

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 the provider, the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the Independent Review Organization.

REVIEWER REPORT

Information Provided for Review:

An MRI of the lumbar spine interpreted by Morris Berk, M.D. dated 06/23/04
Evaluations with Carrie Schwartz, D.C. dated 07/09/04, 08/30/04, 10/18/04, 11/20/04, and 12/20/04
Chiropractic therapy with Dr. Schwartz on 07/09/04, 07/12/04, 07/13/04, 07/15/04, 07/19/04, 07/21/04, 07/26/04, 07/27/04, 07/29/04, 08/02/04, 08/03/04, 08/04/04, 08/11/04, 08/12/04, 08/13/04, 08/16/04, 08/18/04, 08/20/04, 08/23/04, 08/25/04, and 08/27/04
An EMG/NCV study interpreted by Meyer Proler, M.D. dated 07/19/04
Evaluations with Jeffrey D. Reuben, M.D. dated 07/22/04 and 11/04/04
Evaluations with Arun Lall, M.D. dated 07/26/04, 08/16/04, 08/23/04, 09/22/04, 09/29/04, and 10/11/04
A Designated Doctor Evaluation with Howard H. Hood, M.D. dated 08/06/04
A lumbar epidural steroid injection (ESI) performed by Dr. Lall on 08/09/04
A Required Medical Evaluation (RME) with Anthony S. Melillo, M.D. dated 09/15/04
Chest x-rays interpreted by Kevin E. Legendre, M.D. dated 09/20/04 and 09/21/04
An evaluation with Daniel T. Dao, M.D. dated 10/27/04
An undated position statement from Bose Consulting, L.L.C.

Clinical History Summarized:

An MRI of the lumbar spine interpreted by Dr. Berk on 06/23/04 revealed a disc herniation with impingement on the subarachnoid space at L4-L5. Chiropractic therapy with Dr. Schwartz was performed from 07/09/04 through 08/27/04 for a total of 21 sessions. An EMG/NCV study of the bilateral lower extremities interpreted by Dr. Proler on 07/19/04 was normal. Dr. Hood performed a Designated Doctor Evaluation on 08/06/04 and felt the claimant would not be at Maximum Medical Improvement (MMI) until around 09/10/04. Dr. Lall performed the ESI on 08/09/04. On 09/15/04, Dr. Melillo felt the claimant was not at MMI and recommended a return to work within the limits of the Functional Capacity Evaluation (FCE), along with a series of three ESIs and possible surgical intervention. Chest x-rays interpreted by Dr. Legendre on 09/20/04 revealed evidence consistent with either suboptimal inspiratory effort or a developing process and pleural fluid collection or scar. On 09/21/04, Dr. Legendre did another chest x-ray and noted no evidence of pulmonary aspiration. An undated note from Bose Consulting, L.L.C. stated the carrier denied reimbursement to the provider for the disputed dates of service from 07/09/04 through 08/27/04. They felt all the treatment provided was medically reasonable and necessary and requested reimbursement for chiropractic therapy.

Disputed Services:

Office visits, therapeutic exercises, manual therapy techniques, and electrical stimulation from 07/13/04 through 08/27/04

Decision:

I disagree with the requestor. The office visits, therapeutic exercises, manual therapy techniques, and electrical stimulation from 07/13/04 through 08/27/04 were neither reasonable nor necessary.

Rationale/Basis for Decision:

Based upon review of the records, in my opinion, the documentation did not support the treatment with therapeutic exercises, manual therapy techniques, and electrical stimulation from 07/09/04 through 08/27/04 was reasonable and medically necessary as related to the injury of . The documentation clearly indicated that the patient had previously sought and received treatment from two previous chiropractors, at which time, in all likelihood, the claimant received the same or similar services consisting of passive and active modalities. Records clearly indicated that the services received by the patient were of little to no benefit and the continuation of same or similar services would not have been appropriate or indicated. According to the *ACOEM Guidelines*, Chapter 12, on low back complaints, both manipulation and physical modalities are of value on a short term use and are generally effective during the first few weeks of care (Pages 298-300), but the continuation of this form of intervention would not be reasonable or medically indicated, particularly when there has been no therapeutic benefit. It does not appear that the provider attempted to ascertain any of the past medical records or determine what prior treatment the patient had received by the previous chiropractors. Based upon the records provided, it does not appear that the patient benefited from the continued use of passive or active modalities nor did he appear to benefit from the ESI intervention. Although records indicated that continued physical therapy was recommended, this recommendation has no basis in evidenced based literature as to the efficacy of continued passive and active modalities for the treatment of this patient's injury, which was incurred on .

In closing, in my opinion, the only service that would be reasonable and medically necessary during the timeframe in question from 07/09/04 through 08/25/04 would be the initial evaluation performed at Horizon Health on 07/09/04. The other services, consisting of therapeutic exercises, manual therapy techniques, and electrical stimulation would not be considered reasonable or medically 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

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). 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.

If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision. A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk
TDI-Division of Workers' Compensation
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 DWC via facsimile or U.S. Postal Service on 11/11/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel