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 and Fee Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier

Requestor's Name and Address:	MDR Tracking No.: M5-05-2996-01
Horizon Health c/o Bose Consulting LLC PO Box 550496 Houston TX 77255	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
c/o Harris & Harris Box 42	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents included TWCC 60 package, Explanations of Benefits, CMS 1500s, and medical documentation.

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

No position summary was received.

PART IV: SUMMARY OF DISPUTE AND FINDINGS - Medical Necessity Services

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
1-24-05 to 4-29-05	99212, 97110, 97112, 97140	☒ Yes ☐ No	$8,012.40

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 Division has reviewed the enclosed IRO decision and determined that the requestor did prevail on the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is $8,012.40. Reimbursement per code are as billed except for 97110 which should be reimbursed @ $215.16 per line item instead of $222.24.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 and 134.202

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 parties are instructed to review the IRO decision and take appropriate action. For any services that may have been found to be medically necessary, the insurance carrier is instructed to process those services through their bill review and payment processes, including issuing any additional amounts due consistent with the established fee guidelines. The carrier must refund the amount of the IRO fee to the requestor within 30 days of receipt of this order. 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 entitled to additional reimbursement in the amount of $8,012.40. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 30 days of receipt of this Order.

Findings and Decision by:

		9-19-05
Authorized Signature	Typed Name	Date

Order by:

	Manager, Medical Necessity Team	9-19-05
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:	M5-05-2996-01
NAME OF REQUESTOR:	Horizon Health
NAME OF PROVIDER:	Carrie Schwartz, D.C.
REVIEWED BY:	Board Certified in Chiropractics
IRO CERTIFICATION NO:	IRO 5288
DATE OF REPORT:	09/12/05

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 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:

An emergency room clinical record dated ___ at Christus Health from an unknown provider (the signature was illegible)
X-rays of the lumbar spine dated ___ and interpreted by Luke Huynh, M.D.
An evaluation by Carrie Schwartz, D.C. on 06/16/04 at Horizon Health
A letter of medical necessity dated 06/16/04 and signed by Dr. Schwartz
Therapy with Dr. Schwartz at Horizon Health on 06/28/04, 06/30/04, and 07/02/04
X-rays of the cervical, thoracic, and lumbar spines, as well as the left and right shoulder dated 07/01/04, interpreted by Kevin Legendre, M.D.
A request for authorization of a muscle stimulator at home for a period of two months dated 07/09/04 and signed by Dr. Schwartz
A consultation with Ben Tiongson, M.D. at Professional Pain Management Services on 07/19/04
MRIs of the lumbar, cervical, and lumbar spines, as well as of the right and left shoulders dated 07/27/04 and interpreted by Dr. Legendre
A follow-up evaluation with Dr. Schwartz dated 07/29/04
A bone scan dated 08/06/04 and interpreted by Arlene Marx, M.D.
A follow-up evaluation with Dr. Tiongson dated 08/16/04
Therapy with Dr. Schwartz on 08/03/04, 09/02/04, 09/03/04, 10/25/04, 10/27/04, 10/29/04, 11/01/04, 11/04/04, 11/05/04, 12/14/04, 12/15/04, and 12/17/04
An evaluation with Jeffrey Reuben, M.D. dated 09/02/04
A follow-up evaluation with Dr. Tiongson dated 09/13/04
An evaluation with Dr. Reuben dated 09/30/04
A prescription and letter of medical necessity for a conductive garment dated 10/11/04 from Dr. Schwartz
A procedure note for a lumbar epidural steroid injection (ESI) at L5-S1 on 11/01/04 from Dr. Tiongson
Another follow-up evaluation with Dr. Reuben dated 11/11/04
Another follow-up evaluation with Dr. Tiongson dated 11/22/04
A Designated Doctor Evaluation with Jeanne Southern, M.D. on 12/02/04
A statement of medical necessity dated 12/14/04 from Dr. Schwartz
An electrodiagnostic evaluation of the bilateral lower extremities dated 12/29/04 and interpreted by Meyer Proler, M.D.
Continued treatment with Dr. Schwartz dated 01/03/05, 01/05/05, 01/07/05, 01/17/05, 01/19/05, 01/21/05, 02/01/05, 02/03/05, 02/04/05, 02/14/05, 02/16/05, 02/18/05, 02/28/05, 03/02/05, 03/04/05, 03/14/05, 03/16/05, 03/18/05, 03/28/05, 03/31/05, 04/01/05, 04/11/05, 04/12/05,

04/13/05, 04/27/05, 04/28/05, and 04/29/05
A follow-up evaluation with Dr. Schwartz dated 01/04/05
An evaluation with Peter Yeh, M.D., a neurosurgeon, dated 01/25/05
An operative report for an ESI at L5-S1 on 02/01/05 from Dr. Tiongson
A follow-up evaluation with Dr. Tiongson dated 02/14/05
An additional follow-up evaluation with Dr. Tiongson dated 03/16/05
A Functional Capacity Evaluation (FCE) dated 03/23/05 with Gregory Baker, D.C.
A Required Medical Evaluation (RME) dated 03/23/05 from James Hood, M.D.
An operative report for an ESI at L5-S1 on 03/25/05 from Dr. Tiongson
A follow-up evaluation with Dr. Tiongson dated 04/04/05
Another FCE dated 04/22/05 with Scott C. Harrell, D.C.
A follow-up evaluation with Dr. Tiongson dated 05/11/05.
A Designated Doctor Evaluation with Carlton Smith, M.D. dated 05/18/05
A TWCC-69 form dated 05/18/05 and signed by Dr. Smith
A follow-up evaluation with Dr. Reuben dated 05/20/05
A progress report from Dr. Tiongson dated 05/25/05

Clinical History Summarized:

The patient presented to the emergency room on ___, as she was at intersection when she was involved in a motor vehicle accident (MVA). She was diagnosed with a left knee contusion and a lumbar strain. The patient attended therapy with Dr. Schwartz on 06/28/04, 06/30/04, and 07/02/04. X-rays of the cervical spine, thoracic spine, and lumbar spine, as well as the left and right shoulder were obtained on 07/01/04. An MRI of the lumbar spine on 07/27/04 revealed evidence of discal herniation at the L5-S1 level with a minimal broad 1 to 2 mm. annular disc bulge at L4-L5. On 07/29/04, Dr. Schwartz recommended active rehabilitation three times a week. The patient attended chiropractic therapy with Dr. Schwartz on 08/30/04, 09/02/04, 10/03/04, 10/25/04, 10/27/04, 10/29/04, 11/01/04, and 11/05/04. The patient underwent an ESI at L5-S1 on 11/01/04 with Dr. Tiongson. An electrodiagnostic evaluation on 12/29/04 revealed mild lumbar radiculopathy, predominantly affecting the bilateral S1 nerve root on the right greater than the left with signs of reinnervation. There was also a possible right L5 radiculopathy. The patient continued in treatment with Dr. Schwartz from 01/03/05 through 04/29/05 and received joint mobilization, myofascial release, stretching and strengthening exercises, neuromuscular reeducation, and electrical stimulation. The patient received a second ESI at L5-S1 on 02/01/05. On 03/23/05, the patient underwent an FCE, but it was noted that due to the validity study, it was felt the evaluation might be an understatement of what the patient was truly capable of performing. Dr. Hood performed an RME on 03/23/05 and he noted that no ongoing treatment would be of any benefit in view of the profound symptom magnification and possible secondary gain issues. The patient underwent her third ESI at L5-S1 on 03/25/05. Dr. Smith performed a Designated Doctor Evaluation on 05/18/05 and felt the patient had reached MMI on 05/18/05 and assigned her 10% whole person impairment rating. On 05/20/05, Dr. Reuben felt the patient was a candidate for another lumbar ESI or lumbar spine surgery, as she

had discogenic lumbar pain, an L5-S1 disc herniation, an L4-L5 disc bulge, as well as bilateral shoulder impingement syndrome as a direct result of her ___ original injury.

Disputed Services:

Office visits, therapeutic exercises, neuromuscular reeducation, and manual therapy techniques from 01/24/05 through 04/29/05

Decision:

I agree with the requestor. The office visits, therapeutic exercises, neuromuscular reeducation, and manual therapy techniques from 01/24/05 through 04/29/05 were reasonable and medically necessary.

Rationale/Basis for Decision:

The question was whether treatment provided to this patient satisfied the qualifications of Section 408.021 of the Texas Labor Code, which only substantiates 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 medical documentation, the patient suffered a significant lower back injury resulting in lumbar disc herniation with associated radiculitis as demonstrated by the EMG/NCV testing. Documentation showed the patient's condition appeared to progress at a reasonable pace under the treatment plan provided by Dr. Schwartz. The patient continued to have exacerbations of her condition and continued to undergo ESIs to the lumbar spine. Following the ESIs, the patient was again returned to an exercise routine directed at attempting to facilitate strengthening of the patient's condition and eventually return her to work. Therefore, based upon the supplied documentation, the above mentioned services provided by Dr. Schwartz between 01/24/05 and 04/29/05 does satisfy the qualifications of Section 408.021 and were, therefore, 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 09/12/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel