



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:

David M Griffith DC
30525 Quinn Road #A
Tomball TX 77375

MDR Tracking No.: M5-05-3257-01

Claim No.:

Injured Worker's Name:

Respondent's Name and Address:

Zenith Insurance Box 47

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DWC-60 package, EOBs, CMS-1500s. Position Summary: "...As you can quite clearly see based on all the clinical information I would provide as well as the outcome and assessment, the treatment that we rendered to [claimant] from the beginning of November through the mid to later portion of December met with a significant improvement reduction in his symptomology. He has also met with radical change in his body mechanic and improved physical demanding capabilities. The patient went on to complete a return-to-work program and has returned to work at his normal capacity..."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DWC-60 response. Position Summary: Zenith continues to believe that the disputed services were not medically necessary.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
9-10-04 to 12-31-04	97110 (18 days x \$137.84 = \$2,481.12)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$4,376.42
	97110 (11 days x \$172.30 = \$1,895.30)		
	97112 (29 days x \$34.30 = \$994.70)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$994.70
	97140 (29 days x \$31.73 = \$920.17)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$920.17
	99212 (15 days x \$44.16 = \$662.40) 99213 (2 days x \$61.98 = \$123.96) 99214 (\$96.91)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$883.27
TOTAL			\$7,174.56

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 **prevailed** on the disputed medical necessity issues.

Based on review of the disputed issues within the request, Medical Review 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 billed for dates of service 11-22-04 and 12-6-04 was denied as “V – unnecessary medical”; however, per Rule 129.5, this is a required report and is not subject to an IRO review. Medical Review has jurisdiction in this matter; therefore, recommend reimbursement of \$15.00 x 2 days = \$30.00.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 134.202, 129.5

PART VII: DIVISION DECISION AND 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 \$7,204.56. In addition, the Division finds that the requestor was the prevailing party and is entitled to a refund of the IRO fee in the amount of \$460.00. 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 & Decision by:

_____, Medical Dispute Officer

Authorized Signature

Typed Name

Date

Ordered by:

Manager

Medical Necessity Team

Date of Order

Authorized Signature

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: M5-05-3257-01
NAME OF REQUESTOR: David M. Griffith, D.C.
NAME OF PROVIDER: David M. Griffith, 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 Dr. Griffith:

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.

This case was reviewed by a physician reviewer who is Licensed in Chiropractics and is currently listed on the DWC 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 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:

Lumbar spine x-rays interpreted by Kenneth Kist, M.D. dated 07/21/04
Notices of disputed issue(s) and refusal to pay benefits forms dated 07/29/04, 08/24/04, and 12/21/04
An MRI of the lumbar spine interpreted by Raul A. Pelaez, M.D. dated 08/23/04
Chiropractic therapy notes with David M. Griffith, D.C. dated 09/10/04, 09/13/04, 09/14/04, 09/15/04, 11/01/04, 11/02/04, 11/05/04, 11/08/04, 11/09/04, 11/10/04, 11/15/04, 11/17/04, 11/19/04, 11/22/04, 11/23/04, 11/24/04, 11/29/04, 12/01/04, 12/03/04, 12/06/04, 12/07/04, 12/08/04, 12/13/04, 12/14/04, 12/17/04, 12/20/04, 12/21/04, 12/22/04, 12/27/04, 12/29/04, and 12/31/04
A procedure note from Michael E. Kruczek, M.D. dated 09/17/04
A letter of non-authorization for chiropractic treatment dated 10/04/04
A procedure note with Berney R. Keszler, M.D. dated 10/26/04
Evaluations with Dr. Griffith dated 10/29/04, 11/19/04, 11/22/04, and 12/20/04
An evaluation with Dr. Keszler dated 11/02/04

A Functional Capacity Evaluation (FCE) with Charles F. Xeller, M.D. dated 11/03/04
Required Medical Evaluations (RMEs) with Dr. Xeller dated 11/18/04, 12/29/04, and 02/24/05
A procedure note with Gregory L. Lilly, M.D. dated 12/02/04
A letter to the claimant's insurance carrier from Dr. Griffith dated 12/03/04
An evaluation with Dr. Lilly dated 12/09/04
FCEs with Curt E. Cook, D.C. dated 12/15/04 and 01/20/05
A request for a Medical Dispute Resolution (MDR) from Dr. Griffith dated 02/17/05
A Designated Doctor Evaluation with William R. Culver, M.D. dated 02/22/05

Clinical History Summarized:

Lumbar spine x-rays interpreted by Dr. Kist on 07/21/04 revealed significant
Lumbar spine x-rays interpreted by Dr. Kist on 07/21/04 revealed significant osteophytosis, slight narrowing at L5 and L5-S1, and facet hyperkajsdflkjadsfadf and facet hypertrophy throughout the spine. On 07/29/04, facet hypertrophy throughout the spine. On 07/29/04, The Zenith Group filed a notice of disputed issue(s) and refusal to pay benefits form regarding dispute of the degenerative disc disease and osteophytosis of the lumbar spine as they were not related to the originally injury. An MRI of the lumbar spine interpreted by Dr. Pelaez also showed degenerative changes throughout the spine. On 08/24/04, Zenith denied a right sided hernia as related to the original injury. Chiropractic therapy was performed with Dr. Griffith from 09/10/04 through 12/31/04 for a total of 31 sessions. Bilateral facet joint injections at L3 through L5 were performed by Dr. Kruczek on 09/17/04 and by Dr. Keszler on 10/26/04. On 10/04/04, Forte provided a letter of non-authorization for chiropractic treatment. Dr. Keszler recommended radiofrequency ablation bilaterally at L3 through L5 on 11/02/04, which was performed by Dr. Lilly on 12/02/04. An RME with Dr. Xeller on 11/18/04 revealed the claimant was at Maximum Medical Improvement (MMI) at that time and would not require further treatment, other than over-the-counter anti-inflammatories. On 12/03/04, Dr. Griffith provided a letter of medical necessity for the chiropractic treatment. On 12/21/04, The Zenith Group provided another letter disputing the arthritic condition of the spine as related to the original injury. On 02/17/05, Dr. Griffith wrote a letter requesting an MDR due to a second denial for the chiropractic treatment. Dr. Culver felt the claimant was at MMI as of 02/22/05 with a 5% whole person impairment rating.

Disputed Services:

Therapeutic exercises, neuromuscular reeducation, manual therapy techniques, and office visits from 09/10/04 through 12/31/04

Decision:

I agree with the requestor. The therapeutic exercises, neuromuscular reeducation, manual therapy techniques, and office visits from 09/10/04 through 12/31/04 were reasonable and necessary as related to the original injury.

Rationale/Basis for Decision:

The question should be whether the treatment provided to the claimant satisfies the qualifications of Section 408.021 of the Texas Labor Code, which 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 medical documentation, it appeared the claimant suffered an injury to the lumbar spine, including lumbar disc displacement, which was severe complicated by the presence of underlying arthritic changes demonstrated by both MRI and x-ray evaluation. Based upon the documentation, the claimant's condition continued to progress at a reasonable pace under the treatment plan provided by Dr. Griffith. Therefore, based upon the supplied documentation and the above mentioned services performed by Dr. Griffith between 09/10/04 and 12/31/04 do 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

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