



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:

**Clinica Santa Ana
8612 Long Point
Houston TX 77055**

MDR Tracking No.: M5-06-0028-01

Claim No.:

Injured Worker's Name:

Respondent's Name and Address:

American Casualty Company of Reading PA Box 47

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DWC-60 package. Position Summary: None submitted

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Response to DWC-60 package. Position Summary: Per 3-11-05 CCH Decision, injury does not extend to lumbar. Even if the services had been provided for a compensable condition, *all* the services in dispute should be reviewed by an IRO because the Provider had notice that the Carrier questioned the medical necessity of *all* the services.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
9-2-04 to 11-18-04	99212 16 days x \$48.03 = \$768.48	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$2,140.62
	97032 11 units x \$20.04 = \$220.44		
	97035 11 units x \$15.78 = \$173.58		
	97124 2 units x \$28.09 = \$56.18		
	97112 14 units x \$36.75 = \$ 514.50		
	97110 11 units x \$37.04 = \$407.44		

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.

The disputed dates of service 6-18-04 through 7-14-04 are untimely and ineligible for review per DWC Rule 133.308 (e)(1).

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 134.202

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 \$2,140.62. 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.

Ordered by:

Medical Dispute Officer

2-8-06

Authorized Signature

Typed Name

Date of Order

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: M5-06-0028-01
NAME OF REQUESTOR: Clinica Santa Ana
NAME OF PROVIDER: Shonai Basu, D.C.
REVIEWED BY: Licensed by the Texas State Board of Chiropractic Examiners
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 11/23/05 (REVISED 01/25/06)

Dear Clinica Santa Ana:

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 the area of 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:

Evaluations with Shonai Basu, D.C. on 06/09/04, 11/02/04, 12/06/04, 04/02/05, and 08/25/05
Chiropractic therapy with Dr. Basu on 06/09/04, 06/11/04, 06/14/04, 06/16/04, 06/18/04, 06/23/04, 06/25/04, 06/28/04, 06/30/04, 07/02/04, 07/06/04, 07/07/04, 07/09/04, 07/12/04, 07/14/04, 07/16/04, 07/19/04, 07/26/04, 07/28/04, 07/29/04, 08/02/04, 08/04/04, 08/06/04, 08/09/04, 08/13/04, 08/16/04, 08/18/04, 08/20/04, 08/24/04, 08/26/04, 08/27/04, 09/02/04, 09/03/04, 09/06/04, 09/07/04, 09/08/04, 09/10/04, 09/17/04, 09/21/04, 09/28/04, 09/30/04, 10/04/04, 10/05/04, 10/08/04, 10/07/04, 10/12/04, 10/13/04, 10/14/04, 10/18/04, 10/19/04, 10/21/04, 10/26/04, 10/28/04, 11/02/04, 11/03/04, 11/05/04, 11/09/04, 11/18/04, 11/19/04, 11/22/04, 11/23/04, 11/24/04, 12/01/04, 12/20/04, 12/23/04, 12/27/04, 12/28/04, 01/03/05, 01/05/05, 01/31/05, 02/02/05, 02/09/05, 02/11/05, 02/16/05, 02/18/05, 02/21/05, 02/28/05, 03/02/05, 03/04/05, 03/09/05, 03/11/05, 03/16/05, 03/18/05, 03/25/05, 03/30/05, 04/01/05, 04/02/05,

04/06/05, 04/14/05, 04/16/05, 04/19/05, 04/20/05, 04/22/05, 04/26/05, 04/28/05, 04/29/05, 05/03/05, 05/05/05, 05/06/05, 05/10/05, 05/12/05, 05/31/05, 06/14/05, 06/16/05, 06/20/05, 06/21/05, 06/23/05, 06/28/05, 06/30/05, 08/25/05, 08/30/05, 09/07/05, 09/15/05, 09/19/05, 09/20/05, 09/26/05, 09/27/05, 09/29/05, 10/03/05, 10/11/05, and 10/13/05

Evaluations with David N. Gunther, D.P.M. dated 06/24/04, 07/03/04, 08/10/04, 08/31/04, 10/26/04, 11/23/04, 01/06/05, 01/11/05, 01/20/05, 02/10/05, 03/31/05, 05/24/05, 06/21/05, and 08/09/05

An MRI of the right foot interpreted by Kevin F. Legendre, M.D. dated 06/30/04

An evaluation with Jose Magbag, D.C. dated 08/02/04

An EMG/NCV study interpreted by Meyer L. Proler, M.D. dated 08/02/04

A letter written to Dr. Basu from Dr. Gunther dated 08/16/04

Evaluations with Robert S. Francis, D.C. dated 08/17/04 and 02/01/05

A notice of disputed issue(s) and refusal to pay benefits form from the insurance carrier dated 09/01/04

An operative report from Dr. Gunther dated 01/07/05

A decision and order letter from K. Eugene Kraft, Hearing Officer, dated 03/11/05

TWCC-73 forms from Dr. Basu dated 04/01/05, 06/01/05, 07/01/05, 09/02/05, and 09/29/05

A Required Medical Evaluation (RME) with Barna Richards, M.D. dated 05/13/05

Chiropractic therapy with Dr. Magbag dated 05/17/05

Evaluations with Fernando Franco, D.C. dated 07/07/05, 07/18/05, 08/01/05, 08/08/05, and 08/16/05

Chiropractic therapy with Dr. Franco dated 07/07/05, 07/08/05, 07/11/05, 07/12/05, 07/18/05, 07/19/05, 07/21/05, and 07/25/05

A TWCC-73 form filed by Dr. Franco on 08/01/05

Work hardening/work conditioning sessions dated 08/29/05, 08/31/05, 09/01/05, 09/03/05, 09/09/05, and 09/12/05

A letter from Stone Loughlin & Swanson, L.L.P. Attorneys at Law dated 10/04/05

Clinical History Summarized:

Chiropractic therapy was performed with Dr. Basu from 06/09/04 through 10/13/05 for a total of 121 sessions. An MRI of the right foot interpreted by Dr. Legendre on 06/30/04 revealed soft tissue swelling and significant effusion within the first MTP joint. On 07/03/04, Dr. Gunther prescribed a Medrol Dosepak and a short-leg walker. An EMG/NCV study interpreted by Dr. Proler on 08/02/04 showed sensory mononeuropathy of the right sural nerve. On 08/16/04, Dr. Gunther recommended continued therapy with possible surgery. On 01/07/05, Dr. Gunther performed right foot surgery. On 04/02/05, Dr. Basu recommended a Functional Capacity Evaluation (FCE). Dr. Richards felt the patient was not at Maximum Medical Improvement (MMI) as of 05/13/05 and recommended continued physical therapy. On 07/07/05, 08/01/05, 08/08/05, and 08/16/05, Dr. Franco recommended a work hardening program based on the FCE. Work hardening/work conditioning was performed from 08/29/05 through 09/12/05. On 10/04/05, a statement of position was provided by Stone Loughlin & Swanson Attorneys at Law regarding a dispute resolution.

Disputed Services:

Office visits, electrical stimulation, ultrasound, massage therapy, neuromuscular reeducation, and therapeutic exercises from 09/02/04 through 11/18/04

Decision:

I agree with the requestor. The office visits, electrical stimulation, ultrasound, massage therapy, neuromuscular reeducation, and therapeutic exercises from 09/02/04 through 11/18/04 were reasonable and necessary as related to the original injury.

Rationale/Basis for Decision:

After reviewing the medical records provided, the patient was injured on ___ when a forklift ran over his right lower leg and ankle, causing a grade II ankle sprain and tarsal tunnel syndrome.

The patient had treatment to the right lower extremity, which included office visits, electrical stimulation, ultrasound, massage, neuromuscular reeducation, and exercises from 09/02/04 through 11/18/04. Conservative treatment of tarsal tunnel syndrome could range between six weeks as cited in *Nerve Compression Syndrome of the Foot and Ankle*, by G.B. Holmes, 1994, and another six

months as cited in *Tarsal Tunnel Syndrome Diagnosis, Surgical, and Functional Outcome* by Bailie and Kelikian, 1998, before any possible surgical procedures should be attempted.

The treatments and disputes in question were performed within acceptable guidelines for the diagnosis of tarsal tunnel, which was in question. Thus, the office visits, electrical stimulation, ultrasound, massage therapy, neuromuscular reeducation, and therapeutic exercises were medically necessary to treat the patient between 09/02/04 and 11/18/04.

The rationale for the opinions stated in this report are based on clinical experience and standards of care in the area as well as broadly accepted literature which includes numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

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 Division 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 01/25/06 from the office of Professional Associates.

Sincerely,

Amanda Grimes
Secretary/General Counsel