



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

<b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address:	MDR Tracking No.: M5-06-0261-01
<b>David M Griffith DC</b> <b>30525 Quinn Road #A</b> <b>Tomball TX 77375</b>	Claim No.:
	Injured Worker's Name:
	Date of Injury:
Respondent's Name and Address:	Employer's Name:
	Insurance Carrier's No.:
<b>Indemnity Insurance Co of North America      Box #15</b>	

#### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DWC-60 package. Position summary as stated on table of disputed services: Pts active rehab was delayed due to the pt suffering head trauma and post concussion syndrome. With the start of active rehab 7-7-04 the pt experienced a small setback and then began to improve. Carrier approved spinal injections and then we performed post-injection p.t.. Pt experienced 60% reduction in pain symptomology with our care. His treatment was reasonable and necessary and effective.

#### PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Response to DWC-60 package. Position summary: Per Independent Medical Exam report dated 9-20-04 attached, recommend no further treatment.

#### PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
10-1-04 to 4-26-05	97110, 97112, 97032, 99214, 99080-73, 99213, 99354	<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.

Disputed dates of service 7-16-04 through 9-29-04 are untimely and ineligible for review per Rule 133.308.

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.

On 10-25-05, Medical Review submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Code 99080-73 billed on 10-27-04 was denied as unnecessary medical; however, per Rule 129.5, this is a DWC report and not subject to an IRO review. Medical Review has jurisdiction in this matter. The IRO decision states that due to the fact that the patient has reached the tertiary phase of care and the disputed services do not meet the criteria for this phase, then the disputed services are not medically necessary. Therefore, this work status report is not necessary. The IRO decision is a Division decision.

Code 99456-WP billed on date of service 1-11-05 had no EOB provided by either party. The requestor did not submit convincing evidence of request for reconsideration; therefore, no review and no reimbursement recommended.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 133.308, 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 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:**

\_\_\_\_\_; Medical Dispute Officer

\_\_\_\_\_  
12-16-05

\_\_\_\_\_  
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:** M5-06-0261-01  
**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:** 12/07/05

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 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:

An initial evaluation dated 04/01/04 from David Griffith, D.C.  
A TWCC-73 form signed by Dr. Griffith on 04/01/04  
A CT scan of the head and brain and x-rays of the cervical spine dated 04/02/04 and interpreted by David S. Levey, M.D.  
An additional evaluation with Dr. Griffith dated 04/06/04  
A report of neuropsychological evaluation for 04/30/04, 06/15/04, and 06/25/04 from Sean Connolly, Ph.D.  
Additional follow-up evaluations with Dr. Griffith dated 05/28/04, 06/30/04, and 08/13/04

An MRI of the cervical spine dated 07/01/04 and interpreted by Kenneth Kist, M.D.  
Daily progress notes from Dr. Griffith dated 07/16/04, 07/19/04, 07/26/04, 07/28/04, 07/30/04, 08/02/04, 08/06/04, 08/09/04, 08/11/04, 08/13/04, 08/16/04, 08/18/04, 08/20/04, 08/25/04, 09/01/04, 09/03/04, 09/08/04, 09/10/04, 09/13/04, 09/15/04, 09/17/04, 09/20/04, 09/22/04, 09/24/04, 09/27/04, 09/29/04, 10/01/04, 10/06/04, 10/11/04, 10/13/04, 10/15/04, 10/27/04, 10/29/04, 11/17/04, 12/02/04, 12/09/04, 01/04/05, 01/11/05, and 02/22/05  
TWCC-73 form from Dr. Griffith dated 08/13/04, 10/11/04, 10/27/04, 11/17/04, 12/02/04, 12/09/04, 01/11/05, and 04/26/05  
A notice of retrospective determination dated 08/18/04 from Broadspire  
Another notice of retrospective determination dated 08/20/04 from Broadspire  
Additional follow-up evaluation with Dr. Griffith dated 09/01/04, 09/10/04, 10/11/04, 10/29/04, 11/03/04, 11/17/04, 12/02/04, 12/09/04, 02/22/05, and 04/26/05  
A pain management procedure note dated 09/09/04 from Berney Keszler, M.D.  
Another notice of retrospective determination dated 09/10/04 from Broadspire  
A follow-up visit with Dr. Keszler dated 09/16/04  
A Required Medical Evaluation (RME) dated 09/20/04 from William R. Culver, M.D.  
A notice of retrospective determination dated 09/20/04 from Broadspire  
A pain management procedure note dated 09/23/04 from Gregory Lilly, M.D.  
Two additional notices of retrospective determination dated 09/24/04 and 09/28/04 from Broadspire  
Another pain management follow-up visit dated 10/04/04 with Michael Cruczek, M.D.  
A pain management procedure note dated 10/07/04 from Dr. Keszler  
A letter of medical necessity/request for consideration dated 10/07/04 from Dr. Griffith  
A pain management follow-up visit dated 10/14/04 by Chrystie Troyer, P.A., for Dr. Keszler  
An FCE dated 10/19/04 from Curt Cook, D.C.  
A work hardening assessment and psychosocial history dated 10/27/04 from Rosalind Garza-Harris, L.M.S.W.  
A notice of reconsideration dated 11/03/04 from Dr. Griffith  
A request for a Medical Dispute Resolution (MDR) dated 11/10/04 from Dr. Griffith  
Another FCE dated 01/07/05 from Dr. Cook  
An evaluation of Maximum Medical Improvement (MMI)/impairment rating dated 01/11/05 from Carter Outlaw, D.C.  
A TWCC-69 form dated 01/11/05 and signed by Dr. Outlaw  
A letter from Rick Jacobs at Broadspire regarding the MDR dated 11/01/05

### **Clinical History Summarized:**

Dr. Griffith initially evaluated the patient on 04/01/04 and physical therapy was recommended. On 05/28/04, the patient returned to Dr. Griffith and continued with headaches, neck, and low back pain. An EMG/NCV study, as well as MRIs of the cervical and lumbar spines were recommended. An MRI of the cervical spine on 07/01/04 revealed mild mid cervical spondylitic changes and a slight mid cervical discogenic changes with slight ligamentous disc bulges. The spinal canal and neural foramina remained adequately passive. The patient attended chiropractic therapy with Dr. Griffith from 07/16/04 through 02/22/05. He received traction, therapeutic exercises, neuromuscular reeducation, and electrical stimulation. On 08/18/04 and 08/20/04, Broadspire provided notices of retrospective determination noting treatment dates of 07/16/04, 07/19/04, 07/21/04, 07/26/04, and 07/28/04 for the cervical spine was unreasonable. On 09/09/04, the patient underwent an ESI at C4-C5 by Dr. Keszler. In an RME dated 09/20/04, Dr. Culver noted there was no evidence of cervical or lumbar radiculopathy on his examination. The diagnoses, in his opinion, were possible cervical strain, lumbar strain, and unlikely possible mild concussion and a healed laceration. He did not recommend any further treatment and felt all treatment should have been discontinued no later than 06/15/04 and should not have exceeded more than 25 to 30 sessions total, including passive, active, and chiropractic therapy visits. Dr. Culver also noted he found no evidence of traumatic brain injury. The patient received a second ESI at C4-C5 on 09/23/04 from Dr. Lilly. On 09/24/04 and 09/28/04, Broadspire again produced notices of retrospective determination, noting cervical treatment on 08/20/04, 08/25/04, 09/03/04, and 09/08/04 was unreasonable. The patient received his third C4-C5 ESI on 10/07/04 from Dr. Keszler. In an FCE dated 10/19/04, the patient was functioning in the light physical demand level. However, due to increased pain with certain activities and range of motion deficits, a work hardening program was recommended. On 10/27/04, Ms. Garza-Harris felt the patient would benefit from attending a work hardening program. On 11/03/04, it was noted that a work hardening program would be recommended. On 11/10/04, Dr. Griffith requested an MDR on the patient's case. Dr. Griffith noted on 12/02/04 that they were still awaiting authorization for the work hardening program. The patient underwent a second FCE on 01/07/05 and continued to function in the light physical demand level. A work hardening program was again recommended. On 01/11/05, Dr. Outlaw performed an impairment rating and felt the patient had reached Maximum Medical Improvement (MMI) on

01/11/05 and was assigned 5% whole person impairment rating. Dr. Griffith noted on 02/22/05, the patient had returned to work and was able to continue his current work status with his minor pain. A home exercise program was continued.

**Disputed Services:**

Office visits, therapeutic exercises, neuromuscular reeducation, electrical stimulation, prolonged physician services, and special reports from 10/01/04 through 04/26/05.

**Decision:**

I disagree with the requestor. The office visits, therapeutic exercises, neuromuscular reeducation, electrical stimulation, prolonged physician services, and special reports from 10/01/04 through 04/26/05 would be neither reasonable nor necessary.

**Rationale/Basis for Decision:**

After review of the records provided, I found that the office visits, therapeutic exercises, neuromuscular reeducation, electric stimulation, prolonged physician services, and special reports from 10/01/04 through 04/26/05 were not medically necessary to treat this patient. According to the records provided, the patient was injured on \_\_\_\_\_. He received both active and passive treatments from March of 2004 through September of 2004.

The dates of service in question were 10/01/04 through 04/26/05 fall within tertiary phase of care, according to the *North American Spine Society Guides Phase III*, for multidisciplinary spine specialist 2000. According to the guidelines, clinical indications for the tertiary phase of care include documented history of persistent pain that will respond to nonoperative and/or operative treatment with the typical healing period of four to six months. The types of interventions used in this phase of care include chronic pain management, pharmacological intervention, and injections. Thus, due to the fact that the patient has reached the tertiary phase of care and the treatments in question (office visits, therapeutic exercise, neuromuscular reeducation, electrical stimulation, prolonged physician services, and special reports from 10/01/04 through 04/26/05) did not meet the criteria for this phase. They were not medically necessary to treat this patient.

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 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 12/07/05 from the office of Professional Associates.

Sincerely,

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Lisa Christian  
Secretary/General Counsel