



**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

12-30-05

\_\_\_\_\_  
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:** M5-06-0274-01  
**NAME OF REQUESTOR:** Horizon Health  
**NAME OF PROVIDER:** Bobby Pervez, M.D.  
**REVIEWED BY:** Board Certified in Orthopedic Surgery  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 12/27/05

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.

This case was reviewed by a physician reviewer who is Board Certified in the area of Orthopedic Surgery 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:

X-rays of the lumbar spine, sacrum/coccyx, and left hand interpreted by Mona Bloom, M.D. dated 11/17/04  
Evaluations with Carrie Schwartz, D.C. dated 11/18/04, 11/24/04, 01/17/05, 02/21/05, and 05/16/05  
Chiropractic treatment with Dr. Schwartz dated 11/18/04, 11/19/04, 11/22/04, 11/23/04, 11/24/04, 11/29/04, 11/30/04, 12/01/04, 12/06/04, 12/07/04, 12/08/04, 12/14/04, 12/15/04, 12/16/04, 12/20/04, 12/21/04, 12/22/04, 12/27/04, 12/28/04, 12/29/04, 01/03/05, 01/04/05, 01/05/05, 01/10/05, 01/11/05, 01/12/05, 01/17/05, 01/18/05, 01/19/05, 01/24/05, 01/25/05, 01/26/05, 01/31/05, 02/01/05, 02/03/05, 02/09/05, 02/10/05, 02/11/05, 02/14/05, 02/15/05, 02/16/05, 02/21/05, 02/22/05, 02/23/05, 02/28/05, 03/01/05, 03/02/05, 03/07/05, 03/08/05, 03/09/05, 03/14/05, 03/15/05, 03/16/05, 03/21/05, 03/22/05, 03/23/05, 03/28/05, 03/29/05, 03/30/05, 04/04/05, 04/05/05, 04/06/05, 04/11/05, 04/12/05, 04/13/05, 04/18/05, 04/19/05, 04/20/05, 04/25/05, 04/26/05, 04/27/05, 05/02/05, 05/03/05,

05/04/05, 05/23/05, 05/24/05, 05/25/05, 05/31/05, 06/01/05, 06/02/05, 06/06/05, 06/07/05, 06/08/05, 06/13/05, 06/14/05, 06/15/05, 10/03/05, 10/04/05, 10/05/05, 10/10/05, 10/11/05, 10/12/05, 10/17/05, 10/19/05, and 10/21/05  
MRIs of the lumbar spine and coccyx interpreted by Kevin E. Legendre, M.D. dated 11/23/04  
Letters of medical necessity from Dr. Schwartz dated 11/23/04 and 12/29/04  
An MRI and x-ray of the left hand interpreted by Bob R. Maxcey, M.D. dated 11/26/04  
Evaluations with K. Bobby Pervez, M.D. dated 12/08/04, 12/22/04, 01/24/05, 03/08/05, 04/22/05, 06/03/05, 07/14/05, and 09/08/05  
A TWCC-73 form filed by Dr. Schwartz dated 12/16/04, 03/17/05, 06/15/05, and 07/18/05  
An evaluation with Jeffrey D. Reuben, M.D. dated 12/27/04  
A Functional Capacity Evaluation (FCE) with Scott C. Harrell, D.C. dated 01/03/05  
An EMG/NCV study with Jeffrey R. Hamilton, D.C. dated 01/05/05  
A Designated Doctor Evaluation with Gilbert Mayorga, Jr., M.D. dated 01/31/05  
Operative reports from Dr. Pervez dated 02/24/05, 03/31/05, 05/19/05, 09/29/05, and 10/06/05  
An FCE with Gregory Baker, D.C. dated 03/23/05  
A Required Medical Evaluation (RME) with James F. Hood, M.D. dated 03/23/05  
Designated Doctor Evaluations with E. Floyd Robinson, M.D. dated 05/18/05 and 09/08/05  
A prescription for therapy from Dr. Pervez dated 05/19/05  
Evaluations with Kenneth G. Berliner, M.D. dated 07/20/05 and 09/07/05  
A lumbar discogram CT scan interpreted by K. Francis Lee, M.D. dated 08/12/05  
An evaluation with Howard B. Cotler, M.D. dated 08/16/05  
An undated position statement from Bose Consulting, L.L.C.

### **Clinical History Summarized:**

X-rays of the lumbar spine, sacrum/coccyx, and left hand interpreted by Dr. Bloom on 11/17/04 showed a mildly displaced coccygeal fracture, degenerative changes in the lumbar spine, and a foreign body in the soft tissues of the first and second digits of the left hand. On 11/18/04, Dr. Schwartz recommended therapy, an orthopedic evaluation, and off work status. MRIs of the lumbar spine and coccyx interpreted by Dr. Legendre on 11/23/04 were essentially the same as the x-rays on 11/17/04. Chiropractic therapy was performed with Dr. Schwartz from 11/18/04 through 10/21/05 for a total of 95 sessions. A left hand MRI on 11/26/04 interpreted by Dr. Maxcey revealed a prominent postsurgical void in the second metacarpal and some mild degenerative changes in the first MCP joint. On 12/08/04, Dr. Pervez recommended medications and an EMG/NCV study. On 12/27/04, Dr. Reuben gave the claimant various treatment options and he elected to continue with physical therapy and home exercises. On 12/29/04, Dr. Schwartz wrote a letter of medical necessity for further use of an EMS unit. An FCE with Dr. Harrell on 01/03/05 revealed the claimant could work in the light physical demand level. An EMG/NCV study interpreted by Dr. Hamilton on 01/05/05 revealed nerve root irritation of the left S1 nerve root. He recommended a trial of epidural steroid injections (ESIs). Dr. Mayora performed a Designated Doctor Evaluation on 01/31/05 and agreed with the recommendation for ESIs and post-injection therapy. Lumbar ESIs were performed by Dr. Pervez on 02/24/05, 03/31/05, and 05/19/05. Dr. Hood performed an RME on 03/23/05 and felt the claimant was a candidate for a CT myelogram and sedentary work duty. Dr. Robinson felt the claimant was not at Maximum Medical Improvement (MMI) on 05/18/05. Dr. Pervez wrote a prescription for post injection therapy on 05/19/05. On 07/14/05, Dr. Pervez noted the claimant had a short term response to the ESI and recommended an orthopedic evaluation and continued active therapy. Dr. Berliner recommended a CT myelogram on 07/20/05. A lumbar discogram CT scan performed on 08/12/05 and interpreted by Dr. Lee revealed moderate to severe concordant back pain at L2-L3, L3-L4, L4-L5, and L5-S1 with annular fissuring and disc protrusions. On 08/16/05, Dr. Cotler recommended a lumbar myelogram CT scan and an EMG/NCV study of the lower extremities. Dr. Berliner recommended a trial of facet blocks on 09/07/05. Medial branch blocks at L4-L5 and L5-S1 were performed by Dr. Pervez on 09/29/05 and 10/06/05. An undated Position Statement from Bose Consulting, L.L.C. stated that treatment from 05/23/05 through 06/15/05 was medically reasonable and necessary and reimbursement for those disputed dates of service should be provided.

### **Disputed Services:**

Office visits, therapeutic exercises, neuromuscular reeducation, and manual therapy techniques from 05/23/05 through 06/15/05.

### **Decision:**

I disagree with the requestor. The office visits, therapeutic exercises, neuromuscular reeducation, and manual therapy techniques from 05/23/05 through 06/15/05 were neither reasonable nor necessary.

**Rationale/Basis for Decision:**

No. This claimant had already received an excessive amount of passive care. The care rendered during the period from 05/23/05 through 06/15/05 did not change the nature history of this individual's injury. The claimant by then was involved in more invasive care. The types of therapy rendered were neither reasonable, nor necessary. This was according to the *North American Spine Society Phase III Clinical Guidelines* for the treatment of chronic lower back pain.

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 12/27/05 from the office of Professional Associates.

Sincerely,

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Amanda Grimes  
Secretary/General Counsel