



**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:  William Dodge, M. D. 7125 Marvin D. Love #107 Dallas, Texas 75237	MDR Tracking No.: M5-06-0353-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:  Insurance Company of the State of PA, Box 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

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

Documents include the DWC 60 package.

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

Documents include the DWC 60 response.

**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)
4-27-05 – 4-29-05	CPT codes 99213 (\$68.31 X 2 DOS) 99080-73 (\$15.00)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$151.62
4-29-05	CPT code 99080-73	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0

**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 majority of the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is \$151.62.

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

28 Texas Administrative Code Sec. 133.308 and 134.202(c)(1).

**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 entitled to a refund of the paid IRO fee (\$650.00) and is entitled to reimbursement for the services involved in this dispute in the amount of \$151.62. 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 and Order by:

Donna Auby

1-4-06

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.**



Specialty Independent Review Organization, Inc.

November 30, 2005

DWC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
DWC #:  
MDR Tracking #: M5-06-0353-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The TDI-Division of Workers' Compensation has assigned this case to Specialty IRO for independent review in accordance with DWC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Medical Doctor with a specialty in Neurology. The reviewer is on the DWC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

Mr. \_\_\_ was employed by a home health company when on \_\_\_ he injured his back while cleaning his work van. He presented to Dr. Nicolas Padron, and was diagnosed with lumbar sprain, sciatica, and cervical sprain. He was treated with medications and physical therapy. He received care under the direction of Dr. Padron from October 14, 2004 through August 24, 2005. He was released to return to work on October 24, 2005 without restrictions.

Dr. Padron records indicate various treatment modalities including physical therapy, TENS unit, medications including Flexural, Neurontin, Etodolac, Bextra and Darvocet. Throughout the course of his history, Mr. \_\_\_ had complaints of right lower extremity pain, with numbness of the right lower extremity, which was aggravated by prolonged sitting, for instances when sitting in church. He was returned to work on light duty. On November 15, 2004, he underwent an MRI of the lumbar spine at the Texas Imaging and Diagnostic Center, which revealed an L4-5 mild disk desiccation, and mild loss of disk signal, but no loss of disk height. There was a 1-mm bulge noted. The central canal and foramina appeared normal. At L5-S1, there was no significant disk bulge or protrusion. The central canal appeared normal. The S1 nerve roots were normal. The foramina were normal. The other levels i.e. L1-2, 2-3, and 3-4 were normal.

Also, Mr. \_\_\_ was seen by Dr. Pedro Nosnik, on December 09, 2004 for neurological consultation and electrodiagnostic studies. Dr. Nosnik's examination showed bilateral knee reflexes to be 1+; ankle reflexes were trace bilaterally. Straight leg raising was negative on the left side and positive at 60 degrees on the right side. The sensory examination was normal. Gait was normal. There was no ataxia. He could tiptoe and heel walk with no problems. There was pain at about 45 degrees of flexion of the lumbar spine. Hyperextension and lateral rotation produced minimal pain. An EMG study showed evidence of a chronic right L5 radiculopathy without acute changes. Dr. Nosnik thought he had an on the job probably lumbar diskogenic pain and chronic right L5 radiculopathy with no acute radiculopathy by EMG and nerve conduction velocity.

Throughout the course of his treatment, Mr. \_\_\_ slowly improved. He was seen by a spine specialist Dr. Benjamin Cunningham on January 04, 2005 and was noted on examination to have a positive Faber's sign and Gaenslen's sign on the right. His motor strength was intact. He was described as having 2+ knee and ankle reflexes and negative straight leg raising, but some low-back pain. He has no Babinski sign. He had positive right SI joint tenderness. The impression was chronic SI joint stain, chronic EMG findings, and right radiculopathy, intermittent paresthesias right leg, some "HO vs. MO of the right hip joint". He was advised to see a Dr. Bush for evaluation of his hip and pelvis to see if there is any significant problems and what appears to be myositis ossificans or possible heterotopic ossification of the right hip and to start on physical therapy. Please note that there were no notes submitted from Dr. Bush.

Mr. \_\_\_ also underwent a functional capacities evaluation on January 06, 2005 which revealed no evidence of symptom exaggeration. He met 19 out of 19 validity criteria. It was felt that at the time of the assessment, he was functioning at light physical demand level. He was recommended to undergo work hardening, which he started on March 07, 2005 and completed on April 04, 2005. At the end of the work hardening program, he was able to perform 50-pound PDL work.

Mr. \_\_\_ was seen for a follow-up visit by Dr. William Dodge, one of Dr. Padron's partners, on April 27, 2005. This was in follow-up for completion of his work hardening. He reported a 2 out of 10 lower back pain on the right. His pain was relieved by lying down, it was aggravated by lifting, bending, squatting, and reaching. He was receiving Flexaril, ibuprofen, and Lidoderm patches. He was noted on examination to have full range of motion of his lumbar spine and no neurological deficits. His medications were refilled and he was advised to follow-up in one month. He was released to work in light duty. Dr. Dodge filled out a TWCC status report on April 27, 2005 indicating that he was allowed to return as of April 27, 2005 with restrictions of 4-hours standing, 4 hours of sitting, 2 hours of squatting or kneeling maximum per day, no bending, stooping, pushing, or twisting. He could walk and climb stairs or ladders 2 hours a day, grasp, squeeze, wrist flex or extend, overhead reach 6 hours per day, and he could not lift more than 50 pounds more than 2 hours a day. The diagnoses were lumbar sprain and lumbar radiculopathy. The restrictions were expected to be in place until at least May 27, 2005, the date of the next appointment.

Mr. \_\_\_ then returned to see Dr. Padron's nurse practitioner, Anna Small, on April 29, 2005 because of an exacerbation of pain. He complained of sharp constant radiating pain in the center of his lower back on the right side, which he now rated at 5 out of 10. Nothing was alleviating the pain. The pain was aggravated by sitting, standing, lying down, and movement. He was having trouble sleeping. A physical examination showed tenderness in the lower back. He was given Ultracet and told to return to work in 3 days. Another TWCC form was filled out on April 29, 2005 by Ms. Small indicating identical restrictions on questions 13, 14, 17, 19, and 20 compared to those of from April 27; except that he could return to work on May 02. Question 18 was not completed on the April 29<sup>th</sup> form. Mr. \_\_\_ was advised to follow-up with Dr. Padron on June 05. Records indicate that Mr. \_\_\_ then did return on May 23, 2005 as had been originally scheduled at the April 27 visit.

#### RECORDS REVIEWED

Office progress notes and TWCC Status Reports Nicolas Padron, MD, William Dodge, MD, and Anna Small, FNP dated 10/14/04 through 08/24/05.

MRI of the lumbar spine without contrast, Texas Imaging Center, 11/15/04.

Neurological Consultation and EMG, Pedro Nosnik, MD dated 12/09/04.

Orthopedic spine consultation, Benjamin Cunningham, MD dated 01/04/05.

Functional capacity evaluation, performed at Wol+Med, dated 01/06/05.

Work hardening weekly activity record, dated 03/07/05 through 04/04/05 plus a summary report 04/25/05.

Correspondence to Wendy Perelli, CEO, Siro Inc. from attorney Scott Bouton dated 11/06/05.

Motion to dismiss, by attorney James Sheffield, 11/07/05.

EOBs and explanation of review, AIG Claim Services Inc dated 05/31/05 and 06/20/05.

#### DISPUTED SERVICES

The disputed services include 99213 office visits and 99080-73 work status reports from 4/27/05 through 4/29/05.

#### DECISION

The reviewer agrees with the previous adverse determination regarding code 99080-73 on 4/29/05.

The reviewer disagrees with the previous adverse determination regarding all remaining services on all remaining dates.

## BASIS FOR THE DECISION

Mr. \_\_\_ was seen for a scheduled follow up visit on April 27, 2005 and a TWCC 73 Status Report was appropriately completed. The charges for these services were also appropriate under the Texas Labor Code. He then had a significant exacerbation of his symptoms prompting an earlier than scheduled return visit on April 29, 2005. Again, the charge for the office visit 99213 was appropriately submitted. However, the Status Report form TWCC 73 indicated no changes in Mr. \_\_\_ restrictions. In fact, portions of the activity questionnaire were not completed. The only change under question 13b was the date of duration of the restrictions. Thus, it was not necessary to complete and submit a new TWCC 73 Status report. Thus, the charge 99080-73 was not necessary.

The Medicare guidelines and payment policies were utilized in the decision making process of this review. Medicare Guidelines indicate that the office visits would be necessary for the treating physician to monitor Mr. \_\_\_ care and to plan his treatment protocols and manage his case.

## REFERENCES

Texas Labor Code §408.021

Medicare Guidelines and Payment Policies

The database of reviews of effectiveness. (University of York). Database No. DARE9800065. In: The Cochrane Library, Issue 4, 1999, Oxford. Update Software.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that the reviewing provider has no known conflicts of interest between that provider and 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 IRO.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director

## **Your Right To Appeal**

**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.**

Sincerely,

Wendy Perelli, CEO

**I hereby certify, in accordance with DWC- Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the via facsimile, U.S. Postal Service or both on this 30<sup>th</sup> day of November 2005**

**Signature of Specialty IRO Representative:**

**Name of Specialty IRO Representative: Wendy Perelli**