



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

#### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: <b>Horizon Health c/o Bose Consulting PO BOX 550496 Houston TX 77255</b>	MDR Tracking No.: M5-06-0475-01
	Claim No.:
	Injured Worker's Name:
Respondent's Name and Address: <b>Liberty Insurance Corp Box 28</b>	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

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

DWC-60 package. Position summary: Necessary treatment.

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

Response to DWC-60 package. Position summary: Processing payment for some dates of service.

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
1-3-05 to 7-29-05	97112, 97110, 99212, 99213, 97140	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

#### 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 **not** prevail on the disputed medical necessity issues.

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

28 Texas Administrative Code Sec. 133.308

**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

12-22-05

\_\_\_\_\_  
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:** M5-06-0475-01  
**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:** 12/14/05

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:

Evaluations with Ellison H. Wittels, M.D. dated 09/30/04, 10/06/04, 10/13/04, and 10/21/04  
Physical therapy with Norman Canlas, P.T. dated 10/01/04, 10/04/04, and 10/06/04  
Evaluations with Carrie Schwartz, D.C. dated 10/26/04, 11/24/04, 12/06/04, 12/29/04, and 01/12/05  
Chiropractic treatment with Dr. Schwartz dated 10/27/04, 10/28/04, 10/29/04, 11/01/04, 11/03/04, 11/05/04, 11/09/04, 11/11/04, 11/12/04, 11/16/04, 11/18/04, 11/19/04, 11/22/04, 11/23/04, 11/24/04, 11/29/04, 12/01/04, 12/03/04, 12/06/04, 12/08/04, 12/10/04, 12/15/04, 12/16/04, 12/17/04, 12/20/04, 12/22/04, 12/23/04, 12/28/04, 12/30/04, 12/31/04, 01/03/05, 01/05/05, 01/07/05, 01/10/05, 01/12/05, 01/14/05, 01/17/05, 01/19/05, 01/21/05, 01/24/05, 01/26/05, 01/28/05, 02/07/05, 02/09/05, 02/11/05, 02/14/05, 02/16/05,

02/18/05, 02/21/05, 02/22/05, 02/23/05, 03/02/05, 03/03/05, 03/04/05, 04/26/05, 04/28/05, 04/29/05, 05/02/05, 05/05/05, 05/06/05, 05/09/05, 05/11/05, 05/13/05, 05/16/05, 05/18/05, 05/20/05, 07/05/05, 07/06/05, 07/08/05, 07/11/05, 07/13/05, 07/15/05, 07/18/05, 07/20/05, 07/22/05, 07/25/05, 07/27/05, and 07/29/05

A statement of medical necessity from Dr. Schwartz dated 11/18/04

An MRI of the lumbar spine interpreted by Kevin E. Legendre, M.D. dated 11/23/04

TWCC-73 forms filed by Dr. Schwartz dated 11/29/04, 12/13/04, 01/12/05, 02/11/05, 02/18/05, 03/17/05, 05/18/05, 06/15/05, 07/18/05, 08/18/05, and 09/16/05

Evaluations with K. Bobby Pervez, M.D. dated 11/30/04, 12/20/04, 03/21/05, 05/31/05, and 09/28/05

A field investigator workers' compensation compensability investigation report dated 11/30/04

An EMG/NCV study interpreted by Kevin E. Cowens, Sr., M.D. dated 12/17/04

A Functional Capacity Evaluation (FCE) with Scott C. Harrell, D.C. dated 01/05/05

An evaluation with Jeffrey D. Reuben, M.D. dated 01/10/05

Video surveillance from an unknown provider on 01/20/05 and 01/21/05

Operative reports from Dr. Pervez dated 01/27/05, 04/21/05, and 06/30/05

An evaluation with Peter J. Yeh, M.D. dated 02/01/05

A Required Medical Evaluation (RME) with Douglas M. Stauch, M.D. dated 02/11/05

An FCE with Karl D. Erwin, M.D. dated 02/11/05

A Texas Workers' Compensation Commission (TWCC) Medical Interlocutory Order dated 04/05/05

A Designated Doctor Evaluation with Flavia L. Thomas, D.O. dated 08/11/05

An undated Position Statement from Bose Consulting, L.L.C.

### **Clinical History Summarized:**

Chiropractic therapy was performed with Dr. Schwartz from 10/27/04 through 07/29/05 for a total of 78 sessions. On 11/18/04, Dr. Schwartz recommended a muscle stimulator fitting. An MRI of the lumbar spine interpreted by Dr. Legendre on 11/23/04 revealed disc pathology at L3-L4 and L4-L5 with dehydration at L2-L3 and suggestion of partial sacralization of the L5 segment. Dr. Pervez recommended a Medrol Dosepak and an EMG/NCV study on 11/30/04. An investigation report on 11/30/04 the patient had a bogus Social Security Number and was treating with a highly suspicious chiropractor who had been investigated by numerous law enforcement agencies and NICB. An EMG/NCV study interpreted by Dr. Cowens on 12/17/04 revealed right acute L5-S1 and left chronic L5-S1 radiculopathy. Dr. Pervez recommended epidural steroid injections (ESIs) with post injectional therapy on 12/20/04. Dr. Reuben recommended continued physical therapy on 01/10/05. Video surveillance of the patient on 01/20/05 and 01/21/05 provided no unusual activity. Lumbar ESIs were performed by Dr. Pervez on 01/27/05, 04/21/05, and 06/30/05. Dr. Yeh recommended continued chiropractic care as of 02/01/05. Dr. Stauch recommended four to six more weeks of physical therapy as of 02/11/05. Sheri Ann Coleman, D.C. provided a Medical Interlocutory Order on 04/05/05 ordering reimbursement for medical care, including active rehabilitation. Dr. Thomas felt the patient was at Maximum Medical Improvement (MMI) as of 08/11/05 with a 5% whole person impairment rating. On 09/28/05, Dr. Pervez recommended a lumbar medial branch block at L4-L5 and L5-S1. The undated position statement stated that reimbursement for the treatment provided between 01/03/05 and 07/29/05 would be denied.

### **Disputed Services:**

Neuromuscular reeducation, therapeutic exercises, office visits, and manual therapy techniques from 01/03/05 through 07/29/05

### **Decision:**

I disagree with the requestor. The neuromuscular reeducation, therapeutic exercises, office visits, and manual therapy techniques from 01/03/05 through 07/29/05 would be neither reasonable nor necessary as related to the original injury.

### **Rationale/Basis for Decision:**

By this time, the patient has had adequate conservative therapy. According to *The Occupational Medicine Practice Guidelines*, Second Edition, Chapter 12, approximately eight weeks of physical therapy would be appropriate. Beyond that time, the passive techniques utilized during his treatment do not change the natural history of the disease. In fact, the patient's subjective complaints became worse and his disability indicators became worse, suggesting that the treatment rendered was totally ineffective. In my opinion, the neuromuscular reeducation, therapeutic exercises, office visits, and manual therapy techniques from 01/03/05 through 07/29/05 was neither reasonable nor necessary as related to the compensable injury.

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 12/14/05 from the office of Professional Associates.

Sincerely,

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Lisa Christian  
Secretary/General Counsel