



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.: M5-06-0649-01
Connie J. Grass, D.C. 1031 N. Main Lumberton, TX 77657	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:
Texas Mutual Insurance Company, Box 54	

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

Documents include the DWC 60 package. Position summary states, "The insurance carrier delayed medical doctor's recommendations over and over again. The carrier has shown bad faith effort in assisting the injured worker with her compensable injuries. It has delayed the primary doctor's fees for providing medically necessary treatment for the injured worker beyond the one year allowed for collecting. We also request that you allow penalties and interest to be charged to the carrier due to "Bad Faith Effort."

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

Documents include the DWC 60 response. Position summary states, "Texas Mutual requests that the request for dispute resolution filed by Horizon Health be conducted under the provisions of the APA set out above."

#### 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)
11-30-04 – 8-19-05	CPT codes 97112, 98941, 98942, 97140	<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 not prevail on the disputed medical necessity issues.

In accordance with Rule 133.308 (e), requests for medical dispute resolution are considered timely if they are filed with the division no later than one year after the dates of service in dispute. The following dates of service are not eligible for this review: 11-2-04 to 11-9-04.

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 12-20-05 the Medical Review Division 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.

CPT code 97112 on numerous dates of service was denied by the carrier as “97-Payment is included in the allowance for another service/procedure” or as “435 – the value of the procedure is included in the value of the comprehensive procedure.” Per the 2002 MFG, “CPT code 97112 is considered by Medicare to be a component procedure of CPT code 98942. A modifier is allowed in order to differentiate between the services provided.” No CMS 1500’s were provided by the requestor per Rule 133.307 (e)(2)(A). It was impossible to verify that a modifier was used. However, it is impossible to confirm which services were billed on each date of service since no CMS 1500’s were provided. No additional reimbursement recommended.

CPT codes 98942, 97140, 97112 performed on dates of service 6-7-05, 6-8-05, and 6-14-05 were denied by the carrier as “224-Duplicate charge.” Per Rule 133.308 (p)(5), An IRO decision is deemed to be a commission decision and order. The IRO has denied these services. No reimbursement recommended.

Regarding CPT codes 97112 and 97140 on 7-15-05: These services were denied as “435 – the value of the procedure is included in the value of the comprehensive procedure.” Per the 2002 MFG CPT code 97112 is a component procedure of CPT code 98942. CPT code 97140 is a component procedure of CPT code 98942. No CMS 1500’s were provided by the requestor per Rule 133.307 (e)(2)(A) so it was impossible to determine which services were billed. “25” is not a valid modifier for CPT code 98942. No reimbursement recommended.

Regarding CPT code 98942-25 on 7-15-05: These services were denied as “45-charges exceed your contract fee arrangement” and 793-Reduction due to PPO contract.” Several attempts were made to contact the requestor regarding this contract. No response was received. “25” is not a valid modifier for CPT code 98942. No CMS 1500’s were provided by the requestor per Rule 133.307 (e)(2)(A). No reimbursement recommended.

Regarding dates of service 9-6-05 to 10-31-05: The requestor did not file these services for reconsideration in accordance with 133.307 (e)(2)(B). These services will not be reviewed.

Regarding dates of service 11-4-05 to 11-15-05: Per Rule 133.304(m)(2) these services are not ripe for Medical Dispute Resolution. This dispute was received by Medical Review on 11-28-05. These services will not be reviewed.

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

28 Texas Administrative Code Sec. 133.304(m)(2), 133.307, 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 not entitled to additional reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

**Findings and Decision by:**

Donna Auby

1-30-06

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.**

CLAIMANT: \_\_\_\_  
EMPLOYEE: \_\_\_\_  
POLICY: M5-06-0649-01  
CLIENT TRACKING NUMBER:

Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIoA for independent review in accordance with DWC Rule 153 which provides for medical dispute resolution by an IRO.

MRIoA has performed an independent review of the case in question 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. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing 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.

**Records Received:**

FROM THE STATE:

Notification of IRO assignment 12/19/05 1 page  
Texas Department of Insurance Division of Workers' Compensation form 12/19/05 1 page  
Medical dispute resolution request/response 2 pages  
Table of disputed services 11 pages  
Explanation of Benefits from Texas Mutual 12/7/04 1 page  
Explanation of Benefits from Texas Mutual 12/9/04 1 page  
Explanation of Benefits from Texas Mutual 12/13/04 1 page  
Explanation of Benefits from Texas Mutual 12/16/04 1 page  
Explanation of Benefits from Texas Mutual 12/21/04 1 page  
Explanation of Benefits from Texas Mutual 12/22/04 1 page  
Explanation of Benefits from Texas Mutual 12/28/04 1 page  
Explanation of Benefits from Texas Mutual 1/10/05 1 page  
Explanation of Benefits from Texas Mutual 1/14/05 1 page  
Explanation of Benefits from Texas Mutual 1/17/05 1 page  
Explanation of Benefits from Texas Mutual 1/21/05 1 page  
Explanation of Benefits from Texas Mutual 1/24/05 1 page  
Explanation of Benefits from Texas Mutual 2/2/05 1 page  
Explanation of Benefits from Texas Mutual 2/4/05 1 page  
Explanation of Benefits from Texas Mutual 2/8/05 1 page  
Explanation of Benefits from Texas Mutual 2/9/05 1 page  
Explanation of Benefits from Texas Mutual 2/10/05 1 page  
Explanation of Benefits from Texas Mutual 2/14/05 1 page  
Explanation of Benefits from Texas Mutual 2/21/05 1 page  
Explanation of Benefits from Texas Mutual 2/23/05 – 2/24/05 1 page  
Explanation of Benefits from Texas Mutual 3/4/05 1 page  
Explanation of Benefits from Texas Mutual 3/14/05 1 page  
Explanation of Benefits from Texas Mutual 3/23/05 – 3/24/05 1 page  
Explanation of Benefits from Texas Mutual 3/29/05 1 page  
Explanation of Benefits from Texas Mutual 3/31/05 1 page  
  
Explanation of Benefits from Texas Mutual 4/5/05 1 page  
Explanation of Benefits from Texas Mutual 4/7/05 1 page  
Explanation of Benefits from Texas Mutual 4/11/05 1 page  
Explanation of Benefits from Texas Mutual 4/13/05 1 page  
Explanation of Benefits from Texas Mutual 4/18/05 1 page  
Explanation of Benefits from Texas Mutual 4/21/05 1 page  
Explanation of Benefits from Texas Mutual 4/29/05 1 page  
Explanation of Benefits from Texas Mutual 5/2/05 1 page  
Explanation of Benefits from Texas Mutual 5/5/05 1 page

Explanation of Benefits from Texas Mutual 5/9/05 1 page  
Explanation of Benefits from Texas Mutual 5/13/05 1 page  
Explanation of Benefits from Texas Mutual 5/16/05 1 page  
Explanation of Benefits from Texas Mutual 5/23/05 1 page  
Explanation of Benefits from Texas Mutual 5/26/05 1 page  
Explanation of Benefits from Texas Mutual 6/1/05 1 page  
Explanation of Benefits from Texas Mutual 6/3/05 1 page  
Explanation of Benefits from Texas Mutual 6/16/05 1 page  
Explanation of Benefits from Texas Mutual 6/22/05 1 page  
Explanation of Benefits from Texas Mutual 6/23/05 1 page  
Explanation of Benefits from Texas Mutual 6/27/05 1 page  
Explanation of Benefits from Texas Mutual 6/30/05 1 page  
Explanation of Benefits from Texas Mutual 7/7/05 1 page  
Explanation of Benefits from Texas Mutual 7/14/05 1 page  
Explanation of Benefits from Texas Mutual 7/21/05 1 page  
Explanation of Benefits from Texas Mutual 7/22/05 1 page  
Explanation of Benefits from Texas Mutual 8/2/05 1 page  
Explanation of Benefits from Texas Mutual 8/11/05 1 page  
Explanation of Benefits from Texas Mutual 8/19/05 1 page

FROM THE REQUESTOR/Dr. Grass, DC:

Letter from Dr. Grass, DC to Texas Workers' Compensation Commission 11/23/05 2 pages  
Extent issues questions and answers request 11/21/05 7 pages  
Employee incident report \_\_\_\_ 2 pages  
Letter from \_\_\_\_ 3/7/04 1 page  
Radiology report (MRI left ankle) 4/7/04 1 page  
Radiology report (MRI lumbar spine) 4/16/04 2 pages  
Exhibit A – article on physical examination of the knee 1 page  
Exhibit B – Initial visit comprehensive evaluation 4/28/04 3 pages  
Exhibit C – Designated doctor evaluation 5/17/04 10 pages  
Exhibit D - Follow up visit notes 6/2/04 1 page  
Exhibit E – Follow up visit notes 6/30/04 1 page  
Exhibit F – Radiology report (MRI left knee) 7/5/04 1 page  
Exhibit G – Functional assessment report 7/28/04 12 pages  
Exhibit H – Follow up visit notes 8/4/04 1 page  
Exhibit I – History and physical 8/11/04 2 pages  
Exhibit J – Insurance status notification 8/13/04 1 page  
Exhibit K – Follow up exam notes 8/25/04 2 pages  
Exhibit L – Designated doctor evaluation 9/20/04 11 pages  
Exhibit M – Follow up exam notes 10/13/04 2 pages  
Exhibit N – Chart notes 10/26/04 1 page  
Exhibit O – Follow up orthopedic exam notes 11/10/04 2 pages  
Exhibit P – Operative report 11/12/04 1 page  
Exhibit Q – Prescription from Dr. Baker, MD 11/24/04 1 page  
Statement of medical necessity 12/6/04 9 pages  
Statement of medical necessity 1/3/05 2 pages  
Designated doctor evaluation 1/10/05 11 pages  
Follow up orthopedic exam notes 5/4/05 3 pages  
Follow up orthopedic exam notes 5/25/05 3 pages  
Follow up orthopedic exam notes 6/8/05 3 pages  
Follow up orthopedic exam notes 7/6/05 3 pages  
Prescription from Dr. Baker, MD 7/6/05 1 page  
Prescription from Dr. Baker, MD 7/6/05 1 page  
Radiology report (MRI left shoulder) 11/21/05 1 page  
Table of disputed services 2 pages  
Explanation of Benefits from Texas Mutual 11/2/04 – 11/3/04 3 pages  
Explanation of Benefits from Texas Mutual 11/3/04 1 page  
Explanation of Benefits from Texas Mutual 11/4/04 1 page  
Explanation of Benefits from Texas Mutual 11/8/04 1 page  
Explanation of Benefits from Texas Mutual 11/4/04, 11/8/04, 11/9/04 2 pages  
Explanation of Benefits from Texas Mutual 11/30/04 – 12/1/04 2 pages  
Explanation of Benefits from Texas Mutual 12/1/04 1 page  
Explanation of Benefits from Texas Mutual 12/7/04 1 page

Explanation of Benefits from Texas Mutual 12/8/04 2 pages  
Explanation of Benefits from Texas Mutual 12/9/04 1 page  
Explanation of Benefits from Texas Mutual 12/13/04 1 page  
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Explanation of Benefits from Texas Mutual 12/30/04 3 pages  
Explanation of Benefits from Texas Mutual 1/3/05 4 pages  
Explanation of Benefits from Texas Mutual 1/3/05 – 1/5/05 2 pages  
Explanation of Benefits from Texas Mutual 1/5/05 1 page  
Explanation of Benefits from Texas Mutual 1/5/05 2 pages  
Explanation of Benefits from Texas Mutual 1/7/05 3 pages  
Explanation of Benefits from Texas Mutual 1/10/05 2 pages  
Explanation of Benefits from Texas Mutual 1/12/05 4 pages  
Explanation of Benefits from Texas Mutual 1/14/05 – 1/17/05 4 pages  
Explanation of Benefits from Texas Mutual 1/17/05 2 pages  
Explanation of Benefits from Texas Mutual 1/21/05 2 pages  
Explanation of Benefits from Texas Mutual 1/24/05 3 pages  
Explanation of Benefits from Texas Mutual 1/26/05 4 pages  
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Explanation of Benefits from Texas Mutual 4/25/05 2 pages  
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Explanation of Benefits from Texas Mutual 4/21/05 – 5/5/05 2 pages  
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Explanation of Benefits from Texas Mutual 5/9/05 1 page  
Explanation of Benefits from Texas Mutual 5/13/05 – 5/16/05 3 pages  
Explanation of Benefits from Texas Mutual 5/23/05 2 pages  
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Explanation of Benefits from Texas Mutual 6/3/05 1 page  
Explanation of Benefits from Texas Mutual 6/1/05 – 6/14/05 2 pages  
Explanation of Benefits from Texas Mutual 6/16/05 1 page  
Explanation of Benefits from Texas Mutual 6/16/05 – 7/7/05 1 page  
Explanation of Benefits from Texas Mutual 6/22/05 – 6/23/05 1 page  
Explanation of Benefits from Texas Mutual 6/27/05 1 page  
Explanation of Benefits from Texas Mutual 6/30/05 1 page  
Radiology report 4/16/04 1 page  
2<sup>nd</sup> page of Explanation of Benefits from Texas Mutual 7/7/05 1 page  
Explanation of Benefits from Texas Mutual 7/7/05 2 pages  
Explanation of Benefits from Texas Mutual 7/14/05 1 page  
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Explanation of Benefits from Texas Mutual 7/28/05 3 pages  
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Explanation of Benefits from Texas Mutual 9/15/05 1 page  
Explanation of Benefits from Texas Mutual 10/12/05 1 page  
Explanation of Benefits from Texas Mutual 10/21/05 1 page  
Explanation of Benefits from Texas Mutual 10/26/05 1 page  
Explanation of Benefits from Texas Mutual 10/31/05 1 page  
Explanation of Benefits from Texas Mutual 11/4/05 1 page  
Explanation of Benefits from Texas Mutual 11/11/05 1 page  
Letters to Dr. Grass, DC from Texas Mutual 5/12/05 9 pages  
Letter to Dr. Grass, DC from Texas Mutual 7/8/05 1 page

FROM THE RESPONDENT/Texas Mutual:

Letter to MRIOA from La Treace E. Giles, RN/Texas Mutual 1/12/06 3 pages  
Patient's complaint form 3/16/04 1 page  
Visit note 4/30/04 1 page  
Visit note 5/10/04 1 page  
Visit note 6/7/04 1 page  
Visit note 7/13/04 1 page  
Visit note 8/12/04 1 page  
Visit note 9/21/04 1 page  
Visit note 10/25/04 1 page  
Visit note 11/9/04 1 page  
Follow up orthopedic exam notes 11/24/04 2 pages  
Follow up orthopedic exam notes 12/15/04 3 pages  
Visit note 12/29/04 1 page  
Handwritten information on L knee 1 page  
Visit note 12/30/04 2 pages  
Visit note 1/12/05 1 page  
Visit note 2/14/05 1 page  
Visit note 3/8/05 1 page  
Visit note 4/11/05 1 page  
DWC-69 report of medical evaluation 4/12/05 1 page  
Designated doctor evaluation 4/12/05 14 pages  
Visit note 5/16/05 1 page  
Visit note 6/7/05 1 page  
Visit note 7/22/05 1 page  
Visit note 8/11/05 1 page  
Visit note 9/15/05 2 pages  
Visit note 10/12/05 1 page  
Visit note 10/21/05 1 page  
Visit note 11/15/05 1 page  
Subjective patient information 12/28/05 2 pages  
Copy of Check from Grass chiropractic to MRIOA 12/22/05 1 page

**Summary of Treatment/Case History:**

The patient is a 37-year-old female who injured her left shoulder, foot, hip, and ankle on \_\_\_ when she went to push a rack of clothes and she tripped over the bottom of the rack. She did not fall when the accident happened. She went to the chiropractor on 3/12/04 for evaluation and treatment of left shoulder pain, and headaches, left leg pain, neck pain, ankle pain, and upper back pain. She was diagnosed with segmental dysfunction of the cervical region, displaced cervical disc, lumbar disc displacement, thoracic disc displacement, and lower leg pain, and shoulder arthropathy; as well as pain in the thoracic spine and leg sprain.

A left ankle MRI study done on 4/7/04 was unremarkable and a lumbar MRI study done on 4/16/04 revealed a posterior central disc bulge at L5-S1.

The patient was evaluated by Boris Payan, MD on 4/28/04 and she was diagnosed with possible left knee internal derangement, lower back pain, status post trauma to the left ankle, and a bulging L5-S1 disc.

The patient underwent a designated doctor evaluation on 5/17/04, and the examination of the left shoulder revealed pain in the left shoulder and chest wall that was aggravated by full extension and abduction and relieved in the neutral position. No shoulder stiffness was noted, and physical limitation was mild. The patient complained of low back pain and left radiating leg pain but straight leg raising was normal and the lumbar ranges of motion were full. The neurological examination was unremarkable. The left hip evaluation revealed full ranges of motion

and no muscle strength deficits. There was no objective swelling, deformity or laxity. The left knee evaluation revealed complaints of painful ambulation, but the examination was essentially unremarkable. The left ankle examination was essentially unremarkable. The patient was diagnosed with left shoulder sprain, lumbar herniated disc, low back pain, lumbar radiculitis, left hip sprain, left knee sprain, and contusion of the left ankle and foot. The designated doctor recommended a left knee MRI study and epidural steroid injections for the lumbar region and he projected the patient's MMI date as 7/19/04.

The patient was evaluated by Omar Vidal, MD on 6/2/04 and by Dr. Payan on 6/30/04; medications were prescribed for complaints of left lower extremity pain.

The patient underwent a left knee MRI study on 7/5/04 that was unremarkable.

The patient underwent a functional capacity evaluation on 7/28/04 and she complained of low back pain and left leg and knee pain rated at 7/10. The report indicated the patient had global weakness of the major muscles of the trunk and left lower extremity and she demonstrated range of motion restrictions in the lumbar region and left lower extremity that were inconsistent with previous efforts noted by the designated doctor in this case.

The patient was evaluated by Merrimon Baker, MD on 8/11/04 and she complained of persistent lower back pain and left lower extremity pain. She ambulated with a cane and she used the cane with the wrong hand. She also wore a walker boot. She was diagnosed with lumbar radiculopathy, left knee sprain, and possible meniscal tear. Dr. Baker recommended an EMG-NCV and left knee arthroscopy. She was subsequently re-examined by Dr. Baker on 8/26/04.

The patient was re-examined by the designated doctor on 9/20/04 and the report indicated she was not at MMI, and MMI was projected to be attained by 11/22/04.

The patient underwent a lower extremity EMG/NCV evaluation and the study was normal.

The patient was re-examined by Dr. Baker on 11/10/04 and she continued to complain of lower back pain and knee pain. An arthroscopic surgery was scheduled.

The patient underwent left knee arthroscopic meniscal repair and a left lateral retinacular release on 11/12/04.

The claimant underwent another Designated Doctor evaluation on 1/10/05 and she was projected to reach MMI by 4/11/05. The designated doctor recommended additional post-surgical therapy for the left knee and lumbar epidural steroid injections.

The patient underwent another designated doctor evaluation on 4/12/05 and she was certified at clinical MMI as of 4/12/05 with 6% permanent impairment.

The patient was re-examined by Dr. Baker on 5/4/05 and she was five months post knee arthroscopic surgery and she continued to complain of knee pain. Left lower extremity ranges of motion were reduced and lumbar ranges of motion were reduced. The patient also complained of left shoulder pain and she demonstrated impingement signs. She was diagnosed status post arthroscopic meniscal repair of the left knee, left foot metatarsalgia, and left shoulder labral and/or rotator cuff tear. She was also seen by Dr. Baker on 5/25/05.

The patient underwent a left shoulder MRI study on 11/21/05 that revealed effusion and capsular distention of the acromioclavicular joint with impingement upon the underlying supraspinatus muscle and tendon. There was a slight signal increase in the area suggestive of supraspinatus tendonitis and probable subacromial-subdeltoid bursitis.

#### **Questions for Review:**

1. Were the neuromuscular re-education #97112; chiropractic manipulation #98941, #98942 and manual therapy techniques #97140 from 11/30/04 to 8/19/05 medically necessary? Fee issue also.

#### **Explanation of Findings:**

Chiropractic treatments (#98941 and #98942) were not medically necessary from 11/30/04 to 8/19/05. The maximum therapeutic benefits associated with manipulation are realized in the first few weeks of treatment, and current literature indicates no benefit from the protracted/open-ended use of manipulation in the treatment of back and neck pain. The patient, in this case, began receiving manipulation treatments at the inception of her care with the chiropractor in 3/04 and she continuously received manipulation treatments thereafter. The records reviewed contained no evidence that the treatments produced any meaningful, lasting benefit for the patient. An adequate trial of care is defined as a course of two weeks each of different types of manual procedures, (4 weeks total), after which, in the absence of documented improvement, manual procedures are no longer indicated (Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993.) The patient had a protracted course of care in excess of the parameters delineated above and did not demonstrate a favorable response to treatment.

Bronfort noted that, based on the most recent and comprehensive systematic reviews, there is moderate evidence of short-term efficacy for spinal manipulation in the treatment of both acute and chronic low back pain. There is insufficient data available to draw conclusions regarding

the efficacy for lumbar radiculopathy. The evidence is also not conclusive for the long-term efficacy of spinal manipulation for any type of low back pain. (Bronfort G. "Spinal manipulation: current state of research and its indications." *Neurol Clin* 1999 Feb;17(1):91-111)

Smith et al undertook a review of current literature to establish whether the treatment guidelines in current use are supported by more recently published scientifically rigorous research, and whether additional consensus regarding treatment of acute low back injury has been forthcoming in recent years. A review and critical analysis of literature relating to the treatment of acute low back pain that has been published since the production of the currently used clinical guidelines was conducted and the guidelines were reviewed to assess whether their recommendations remain supportable. The authors concluded that recent research appears to support current clinical guidelines, i.e. exercise may have a positive effect while bed rest is ineffective and may be harmful, simple analgesics and nonsteroidal anti-inflammatory drugs (NSAIDs) have short-term benefits, and spinal manipulation may be effective in the first four weeks; no evidence was found for traction or back schools. (Smith D, McMurray N, Disler P., "Early intervention for acute back injury: can we finally develop an evidence-based approach?", *Clin Rehabil* 2002 Feb;16(1):1-11)

Chiropractic literature clearly demonstrates that the response to manipulation diminishes as the length of the condition increases. McDonald and Bell, in an open controlled pilot trial on nonspecific low back pain patients to assess the effects of spinal manipulation (McDonald, R.S., and Bell, C., "An open controlled assessment of osteopathic manipulation in nonspecific low back pain", *Spine*, 15:364-370, 1990), found that after 4-6 weeks there was no appreciable improvement in the disability index (a measure of activities of daily living interference).

Patients with acute complicated non-surgical lower back disorders generally only require 12 visits over the course of five weeks and chronic complicated non-surgical lower back disorders generally require no more than 14 visits over 8 weeks (Expert Clinical Benchmarks: "Low Back", King of Prussia, PA, MedRisk, Inc. 2003)

Triano studied the differences in treatment history with manipulation for acute, subacute, and recurrent spine pain and found that all but 25 (10.37%) of the original 241 patients in the study had their conditions resolve in six weeks or less. (Triano, J.J., et al, "Differences in treatment history with manipulation for acute, subacute, chronic, and recurrent spine pain", *JMPT*, 15:24-30, 1992.)

Haldeman reported that manipulation appears to have its greatest effect immediately following treatment and during the initial two to six weeks of ongoing treatment. Haldeman noted that the effectiveness of manipulation for the management of back pain seems to be minimal at 3 months to 12 months (Haldeman, S. "Spinal manipulative therapy: A status report", *Clinical Orthopedics and Related Research*, 179:62-70, 1983).

The manual therapy techniques (#97140) were not medically necessary from 11/30/04 to 8/19/05 in this case. Manual therapy (massage and/or myofascial release-type treatments) are passive procedures that have limited efficacy for treatment of lower back pain, neck pain, shoulder pain, and lower extremity pain.

The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions and indications (eg, thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. (Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. *Phys Ther.* 2001;81:1641-1674).

The ACOEM Guidelines indicate that physical modalities such as massage, diathermy, cutaneous laser treatment, ultrasound, TENS units, percutaneous electrical nerve stimulation units and biofeedback have no proven efficacy in the treatment of lower back pain symptoms (ACOEM Guidelines – Low Back Pain, 2003)

The Philadelphia Panel indicated that for neck pain, therapeutic exercises were the only intervention with clinically important benefit. There was good agreement with this recommendation from practitioners (93%). For several interventions and indications (eg, thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. (Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Neck Pain. *Phys Ther.* 2001;81:1701-1717.)

The Royal College of General Practitioners indicates that, although commonly used for symptomatic relief, these passive modalities (ice, heat, short wave diathermy, massage, and ultrasound) do not appear to have any effect on clinical outcomes. (Royal College of General Practitioners, *Clinical Guidelines for the management of Acute Low Back Pain*, Review Date: December 2001)

According to the Philadelphia Panel's Evidence-Based Guidelines on Selected Rehabilitation Interventions for Shoulder Pain, none of the modalities used in the treatment of the patient were supported by the study. Ultrasound provided clinically important pain relief relative to a control for patients with calcific tendinitis in the short term (less than 2 months). There was good agreement with this recommendation from practitioners (75%). For several interventions and indications (eg, thermotherapy, therapeutic exercise, massage, electrical stimulation, mechanical traction), there was a lack of evidence regarding efficacy. (Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Shoulder Pain. *Phys Ther.* 2001;81:1719-1730)

The use of neuromuscular reeducation was not medically necessary from 11/30/04 to 8/19/05 in this case. While the patient did undergo a left knee arthroscopic surgery procedure on 11/12/04, the records did not support the protracted use of neuromuscular reeducation (#97112). The neurological evaluations conducted over the course of the claimant's care revealed no evidence of a neurological deficit. Neuromuscular

reeducation is commonly utilized for post-stroke rehabilitation and is not commonly utilized for the management of conditions similar to the claimant's. The CPT Code Book defines neuromuscular reeducation as: "neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and proprioception". The procedure is utilized to re-establish the neural link between the central nervous system and the motor system after neurological injury. As no evidence of a neural injury was noted, the use of the procedure was not consistent with the diagnoses.

Current literature indicates that home-based rehabilitation programs are as effective as extensive outpatient knee rehabilitation programs. A randomized controlled trial published in 2003 compared the home-based rehabilitation programs with weekly phone monitoring to a more intensive outpatient clinic based program involving up to 20-24 visits. All of the patients in the study were uncomplicated and patients were followed up to 52 weeks. The study revealed that there was no advantage to the more intensive program over the simple home-based program (Kramer, JF, et al, "Comparison of clinic and home-based rehabilitation after total knee arthroplasty", *Clinical Orthopedics and Related Research*, 2003; (410):225-234)

**Conclusion/Decision to Not Certify:**

1. Were the neuromuscular re-education #97112; chiropractic manipulation #98941, #98942 and manual therapy techniques #97140 from 11/30/04 to 8/19/05 medically necessary? Fee issue also.

Chiropractic treatments (#98941 and #98942) were not medically necessary from 11/30/04 to 8/19/05. The manual therapy techniques (#97140) were not medically necessary from 11/30/04 to 8/19/05 in this case. The use of neuromuscular reeducation was not medically necessary from 11/30/04 to 8/19/05 in this case.

**Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:**

Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. *Phys Ther.* 2001;81:1641-1674

**References Used in Support of Decision:**

Haldeman, S., Chapman-Smith, D., and Petersen, D., *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Aspen, Gaithersburg, Maryland, 1993

Bronfort G. "Spinal manipulation: current state of research and its indications." *Neurol Clin* 1999 Feb;17(1):91-111)

Smith D, McMurray N, Disler P., "Early intervention for acute back injury: can we finally develop an evidence-based approach?", *Clin Rehabil* 2002 Feb;16(1):1-11

McDonald, R.S., and Bell, C., "An open controlled assessment of osteopathic manipulation in nonspecific low back pain", *Spine*, 15:364-370, 1990

Expert Clinical Benchmarks: "Low Back", King of Prussia, PA, MedRisk, Inc. 2003

Triano, J.J., et al, "Differences in treatment history with manipulation for acute, subacute, chronic, and recurrent spine pain", *JMPT*, 15:24-30, 1992)

Haldeman, S. "Spinal manipulative therapy: A status report", *Clinical Orthopedics and Related Research*, 179:62-70, 1983.

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Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Neck Pain. *Phys Ther.* 2001;81:1701-1717.

**References Used in Support of Decision:**

Haldeman, S., Chapman-Smith, D., and Petersen, D., *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Aspen, Gaithersburg, Maryland, 1993

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Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Neck Pain. *Phys Ther.* 2001;81:1701-1717.

Royal College of General Practitioners, Clinical Guidelines for the management of Acute Low Back Pain, Review Date: December 2001

Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Shoulder Pain. *Phys Ther.* 2001;81:1719-1730

The CPT Code Book

Kramer, JF, et al, "Comparison of clinic and home-based rehabilitation after total knee arthroplasty", *Clinical Orthopedics and Related Research*, 2003; (410):225-234

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This review was provided by a Doctor of Chiropractic who is also a member of the American Chiropractic Academy of Neurology. This reviewer also holds a certification in Acupuncture. This reviewer has fulfilled both academic and clinical appointments and currently serves as an assistant professor at a state college, is in private practice and is a director of chiropractic services.

This reviewer has previously served as a director, dean, instructor, assistant professor, and teaching assistant at a state college and was responsible for course studies consisting of pediatric and geriatric diagnosis, palpation, adjusting, physical therapy, case management, and chiropractic principles. This reviewer is responsible for multiple postgraduate seminars on various topics relating to chiropractics and has authored numerous publications. This reviewer has participated in numerous related professional activities including work groups, committees, consulting, national healthcare advisory committees, seminars, National Chiropractic Coalition, media appearances, and industrial consulting. This reviewer has been in practice since 1986.

MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, and the DWC.

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