



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

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier

Requestor's Name and Address:

**JULIO FAJARDO DC
2121 N MAIN STREET
FORT WORTH TX 76106**

MDR Tracking No.: M5-06-1041-01

Claim No.:

Injured Worker's Name:

Respondent's Name and Address:

LIBERTY MUTUAL INS BOX 28

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DWC-60 package. Position Summary: Office visit and physical rehab medically necessary.

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Response to DWC-60 package. Position Summary: Denied per peer review.

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Amount Due (if any)
5-5-05 to 7-19-05	97110 \$34.93 x 5 units =	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$174.65
	97140 \$33.04 x 7 units =	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$231.28
	G0283 \$14.16 x 3 units =	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$ 42.48
	99212 \$48.03 x 2 days =	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$ 96.06
	97010 This code is a bundled service code and considered to be an integral part of a therapeutic procedure(s). Reimbursement for code 97010 is included in the reimbursement for the comprehensive therapeutic code. Therefore, additional payment cannot be recommended.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$0.00
	Total		\$544.47

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 **prevailed** on the disputed medical necessity issues.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 134.202

PART VII: DIVISION DECISION AND ORDER

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 additional reimbursement in the amount of \$544.47.

In addition, the Division finds that the requestor was the prevailing party and is entitled to a refund of the IRO fee in the amount of \$460.00. 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.

Ordered by:

Medical Dispute Officer

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: M5-06-1041-01
NAME OF REQUESTOR: Julio Fajardo, D.C.
NAME OF PROVIDER: Julio Fajardo, D.C.
REVIEWED BY: Licensed by the Texas State Board of Chiropractic
Examiners
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 04/04/06

Dear Dr. Fajardo:

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.

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:

X-rays of the lumbar spine interpreted by K.D. Garrett, D.C. dated 01/15/02
An MRI of the lumbar spine interpreted by Ellis F. Robertson, M.D. dated 01/25/02
An EMG/NCV study interpreted by Thomas A. Mitchell, M.D. dated 02/13/02
A lumbar discogram interpreted by Phillip M. Cantu, M.D. on 05/08/02
A post lumbar discogram CT scan interpreted by Eric S. Bennos, M.D. dated 05/08/02
A procedure report from Dr. Cantu dated 07/17/02
An evaluation with Dr. Cantu on 08/27/02

Evaluations with Francisco J. Batlle, M.D. dated 05/28/03, 09/18/03, 01/14/04, 01/23/04, 02/27/04, 05/03/04, 09/20/04, and 01/10/05

Evaluations with Robert J. Henderson, M.D. dated 06/27/03, 07/18/03, and 07/21/03

A lumbar discogram CT scan interpreted by Prabhakar P. Kesava, M.D. dated 07/17/03

Evaluations with Julio Fajardo, D.C. dated 08/13/03, 09/26/03, 02/19/04, 03/02/04, 01/03/05, 04/01/05, and 06/08/05

An operative report from Dr. Henderson dated 08/20/03

Letters of authorization from Liberty Mutual Group dated 10/15/03 and 01/06/04

Chest x-rays interpreted by H. Stuart Peake, M.D. dated 10/30/03

Handwritten and illegible notes from Roger Beaudoin, M.D. dated 10/30/03 and 01/08/04

Laboratory studies from an unknown provider (no name or signature was available) dated 10/30/03 and 01/08/04

An admission history from Dr. Batlle dated 11/06/03

An operative report from Dr. Henderson and Dr. Batlle dated 01/15/04

A discharge summary from Dr. Batlle dated 01/19/04

An activity report from Ivonne Stokes, R.N. dated 02/06/04

A letter of medical necessity from Dr. Fajardo dated 03/09/04

Physical therapy with Dr. Fajardo dated 03/09/04, 03/16/04, 03/18/04, 03/23/04, 03/25/04, 03/26/04, 03/30/04, 04/13/04, 05/05/05, 05/09/05, 05/11/05, and 05/12/05

Psychological evaluations with Will Sandoval, M.Ed., L.P.C. dated 03/12/04 and 08/18/04

Individual psychotherapy with Mr. Sandoval dated 03/18/04

Evaluations with Ved V. Aggarwal, M.D. dated 04/05/04, 05/18/04, 06/14/04, 07/06/04, 08/04/04, 09/30/04, 10/22/04, 12/13/04, 12/02/05, 12/22/05, and 01/27/06

X-rays of the lumbar spine interpreted by Dr. Kesava dated 04/26/04

Procedure notes from Dr. Aggarwal on 05/27/04, 06/24/04, 12/15/05, and 01/18/06

A Functional Capacity Evaluation (FCE) with Mark Williams, D.C. dated 08/05/04

X-rays of the lumbar spine interpreted by John Burgardt, M.D. dated 08/23/04

A Physical Performance Evaluation (PPE) with Kevin J. Strathdee, D.C. dated 01/03/05

A Required Medical Evaluation (RME) with J. John Stasikowski, M.D. dated 02/04/05

An FCE with Robert Larson, P.T. dated 02/15/05

A letter of request for reconsideration from Elida Evans dated 11/01/05

Clinical History Summarized:

An MRI of the lumbar spine interpreted by Dr. Robinson on 01/25/02 revealed degenerative disc disease with mild disc desiccation at L4-L5, along with a small annular tear or fissure, small disc protrusion, facet arthropathy and ligamentum flavum hypertrophy, and mild central spinal stenosis. There was also diffuse loss of signal within the vertebral bodies, raising the possibility of marrow reconversion. An EMG/NCV study interpreted by Dr. Mitchell on 02/13/02 revealed evidence suggestive of a slight degree of irritation at the L5-S1 paraspinal muscles. A lumbar discogram interpreted by Dr. Cantu on 05/08/02 revealed concordant pain at L3-L4, L4-L5, and L5-S1. The post discogram CT scan interpreted by Dr. Bennos on 05/08/02 revealed a grade II annular fissure at L4-L5, a minimal bulge at L3-L4, and a grade I annular fissure at L2-L3. On 07/17/02, Dr. Cantu performed a right SI joint injection. A lumbar discogram CT scan performed and interpreted by Dr. Kesava on 07/17/03 revealed concordant back pain at L4-L5 and L5-L6 with associated fissuring at both levels, a small central disc protrusion and bilateral facet arthropathy at L5-L6, and mild disc bulging at L4-L5. On 07/18/03, Dr. Henderson recommended a repeat ESI, which was performed by Dr. Henderson on 08/20/03. Surgery was performed by Dr. Henderson on 01/15/04 and it included an anterior total discectomy, fusion, and anterior interbody fixation at L4-L5 and L5-L6. Dr. Batlle also performed a lumbar laminectomy with foraminotomies, anterior arthrodesis, bone grafting, and caging at L4-L5 and L5-L6 on 01/15/04. Physical therapy was performed with Dr. Fajardo from 03/09/04 through 05/12/05 for a total of 12 sessions. Mr. Sandoval recommended individual psychotherapy on 03/12/04, which was performed on 03/18/04. X-rays of the lumbar spine interpreted by Dr. Kesava on 04/26/04 revealed postoperative changes with well positioned instrumentation hardware. Right SI joint injections were performed by Dr. Aggarwal on 05/27/04 and 06/24/04. An FCE with Dr. Williams on 08/05/04 determined the patient could not worker regular duty. On 01/03/05, Dr. Fajardo noted the patient recently completed the pain program and gave her return to work restrictions. On 02/04/05, Dr. Stasikowski felt the patient needed no further treatment and could return to work with restrictions. On 11/01/05, Elida Evans wrote a request for reconsideration letter for the dates of service of 05/05/05, 05/09/05, 05/11/05, and 05/12/05 due to the patient having a flare-up. On 12/02/05, Dr. Aggarwal recommended a caudal ESI and possible facet or SI joint injections. The caudal ESI was performed by Dr. Aggarwal on 12/15/05. Left SI joint injections were performed by Dr. Aggarwal on 01/18/06.

Disputed Services:

Therapeutic exercises (97110), manual therapy technique (97140), electrical stimulation (G0283), hot and cold packs (97010), and office visits (99212) from 05/05/05 through 07/19/05

Decision:

I agree with the requestor. The therapeutic exercises, manual therapy technique, electrical stimulation, hot and cold packs, and office visits from 05/05/05 through 07/19/05 were reasonable and medically necessary.

Rationale/Basis for Decision:

According to the medical records provided for my review, the patient injured her low back on _____. She had lumbar surgery on 01/15/04, which included fusions at L4-L5 and L5-S1. The patient received postoperative therapy and also completed a chronic pain program. The treatments in question are therapeutic exercises, manual therapy, electrical stimulation, hot and cold packs, and office visits from 05/05/05 through 07/19/05. According to the medical records, the patient had a recurrence of "flare-up" of her low back pain prior to being seen by her doctor on 05/05/05. She was seen on 05/09/05, 05/11/05, and 05/12/05 for treatments due to her exacerbations. According to the medical records, the patient had another flare-up in July 2005, which required another visit on 07/19/05. According to the North American Spine Society Phase III Guidelines for Multidisciplinary Spine Care Specialists, 2003, exacerbations and acute recurrences are indicators for treatment in phase I. Types of interventions in this phase of care includes manual therapy, passive modality procedures (such as electrical stimulation and hot/cold packs), and therapeutic exercises.

In short, the office visits, therapeutic exercises, manual therapy, and electrical stimulation from 05/05/05 through 07/19/05 were medically necessary to treat this patient due to the fact that the patient met the previously stated treatment guidelines for clinical indication and types of treatment rendered.

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 04/04/06 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel