



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: Linh D. Vo, D.C. 6200 Gulf Freeway Suite 107 Houston, Texas 77023	MDR Tracking No.: M5-06-1105-01 Previously M4-04-2643-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Firemans Fund Insurance Company Rep Box # 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: DWC-60 dispute package

POSITION SUMMARY: "I have waited for a response from carrier for denial of payment for several months. I initially notice a change in address by carrier which I remedy by resending everything. This was then corresponded with a no-payment letter base on medical necessity. No EOB was attach. I again responded, but this time no response. I follow up with a request for reconsideration three different time with no response from carrier. (Please see proof of certified receipt). Therefore, I am at this time formally requesting a medical dispute resolution".

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION SUBMITTED: Response to DWC-60

POSITION SUMMARY: "This is a medical necessity dispute arising from treatment the claimant received from the Requestor on 11-07-02 through 04-17-03. There has been no evidence provided of a need for the level of service given or that the level of service was in fact provided. According to the attached peer review of Dr. Harney on 03-15-02, the Claimant reached MMI on 10-19-01. It further states that treatment to date, including Chronic Pain Management services, has been totally ineffective. See also attached reviews of Dr. Nickamp and Dr. Booker. There is no entitlement for payment of these services".

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
11-07-02	99205	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$137.00
12-03-02	99215	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$103.00
12-10-02 & 01-17-03	90801 (\$180.00 & \$360.00)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$540.00
01-17-03	90830	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$375.00
02-25-03 to 04-17-03	97799-CP (\$1,000.02 X 19 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$19,000.38
12-05-02	97750-FC	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00
TOTAL			\$20,155.38

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 **majority** of the disputed medical necessity issues.

Based on review of the disputed issues within the request, the Medical Review 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 per Rule 133.307.

CPT code 97545-WH dates of service 12-31-02 through 01-24-03 (16 DOS) was denied by the carrier with denial code "V" (unnecessary medical treatment). These services were preauthorized (authorization number 45005-1642758). Per Rule 134.600(b)(B) "The carrier is liable for all reasonable and necessary medical costs relating to the health care: ... preauthorization of any health care listed in subsection (h) of this section was approved prior to providing the health care". Reimbursement is recommended in the amount of **\$1,638.40 (\$102.40 X 16 DOS)** per the 1996 Medical Fee Guideline MAR.

CPT code 97546-WH dates of service 12-31-02 through 01-24-03 (15 DOS) was denied by the carrier with denial code "V" (unnecessary medical treatment). These services were preauthorized (authorization number 45005-1642758). Per Rule 134.600(b)(B) "The carrier is liable for all reasonable and necessary medical costs relating to the health care: ... preauthorization of any health care listed in subsection (h) of this section was approved prior to providing the health care". Reimbursement is recommended in the amount of **\$4,608.00 (\$307.20 X 15 DOS)** per the 1996 Medical Fee Guideline MAR.

A Compliance and Regulations referral will be made as the carrier is in violation of Rule 134.600.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 133.307, 134.600 and 1996 Medical Fee Guideline

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 reimbursement in the amount of \$26,401.78. In addition, the Division finds that the requestor was the prevailing party and is entitled to a refund of the IRO fee (\$650.00). The Division hereby **ORDERS** the Respondent 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 by:

06-13-06

Authorized Signature

Typed Name

Date of Findings and Decision

Order by:

06-13-06

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.



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M5-06-1105-01
NAME OF REQUESTOR: Linh D. Vo, D.C.
NAME OF PROVIDER: Linh D. Vo, D.C.
REVIEWED BY: Board Certified in Preventive and Occupational Medicine
Board Certified in Family Practice
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 04/27/06 (REVISED 05/17/06 & 05/18/06)
(REVISED 06/09/06)

Dear Dr. Vo:

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 Board Certified in the area of Preventive and Occupational Medicine and Family Practice 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:

EMG/NCV studies interpreted by Meyer L. Proler, M.D. dated 05/08/01 and 05/22/01
X-rays and MRIs of the cervical spine, lumbar spine, right shoulder, and right wrist interpreted by Ali Salehi, M.D. dated 05/30/01
An EMG/NCV study interpreted by S. Kahkeshani, M.D. dated 07/20/01
X-rays of the lumbar spine interpreted by William F. Donovan, M.D. dated 07/20/01
Operative reports with Omar Vidal, M.D. dated 08/16/01, 10/09/01, and 02/08/02
X-rays of the lumbar and cervical spine interpreted by Dr. Donovan dated 03/05/02
An evaluation with John H. Harney, M.D. dated 03/15/02

A peer review with Albert J. Bisson, M.D. dated 09/02/02
Evaluations with Loi Nguyen, D.C. dated 11/07/02, 12/03/02, 01/28/03, and 03/06/03
A request for work hardening from Suzana Stankovic, L.P.C. dated 12/05/02
A Functional Capacity Evaluation (FCE) with Loi Nguyen, D.C. dated 12/05/02
Work hardening progress reports from Dr. Nguyen dated 01/03/03, 01/10/03, 01/17/03, and 01/24/03
Evaluations with Howard Bernstein, M.D. dated 01/13/03 and 02/4/03
Psychological evaluations with Glen E. McClure, Ph.D. dated 01/14/03 and 04/29/03
Evaluations with Acxiti Buendia, M.D. dated 02/14/03, 02/26/03, 03/11/03, 04/02/03, 05/06/03, 06/10/03, 07/08/03, 08/15/03, 09/12/03, 10/21/03, and 12/09/03
A letter of preauthorization from Concentra dated 02/25/03
Chronic pain management progress notes from Ms. Stankovic dated 02/25/03, 02/26/03, 02/27/03, 03/03/03, 03/04/03, 03/06/03, 03/10/03, 03/11/03, 03/13/03, 03/14/03, 03/17/03, 04/02/03, 04/03/03, 04/04/03, 04/07/03, 04/08/03, 04/09/03, 04/10/03, 04/11/03, 04/15/03, 04/17/03, and 05/06/03
A psychiatric evaluation with Jaime Ganc, M.D. dated 05/28/03
A records review with Aaron L. Combs, M.D. dated 11/03/03
A letter from Flahive, Ogden & Latson dated 11/07/03

Clinical History Summarized:

An EMG/NCV study interpreted by Dr. Proler on 05/08/01 revealed right sensory and median neuropathy at the wrist. An EMG/NCV study interpreted by Dr. Proler on 05/22/01 revealed possible bilateral radiculopathy in the lower extremities. X-rays and MRIs of the cervical spine, lumbar spine, right shoulder, and right wrist interpreted by Dr. Salehi on 05/30/01 revealed a disc herniation at C3-C4 and C4-C5, disc desiccation at L5-S1, possible bursitis of the right shoulder, and a normal wrist. An EMG/NCV study of the lower extremities interpreted by Dr. Kahkeshani dated 07/20/01 was normal. Cervical epidural steroid injections (ESIs) and bilateral lumbar facet joint injections were performed by Dr. Vidal on 08/16/01 and 10/09/01. A lumbar ESI and lumbar discogram were performed by Dr. Vidal on 02/08/02 with concordant back pain at L5-S1. A lumbar post discogram CT scan interpreted by Edward Knudson, M.D. revealed a partial thickness tear to the left at L4-L5 and a small left posterolateral tear at L5-S1. X-rays of the lumbar and cervical spine interpreted by Dr. Donovan on 03/05/02 revealed slight narrowing at C4-C5 and narrowing with spine instability at L4-L5 and L5-S1. In a peer review by Dr. Bisson on 09/02/02, he felt no further treatment was reasonable or necessary. On 11/07/02, Dr. Nguyen recommended an active therapy program. On 12/03/02, Dr. Nguyen recommended a work hardening program. An FCE with Dr. Nguyen on 12/05/02 noted the claimant functioned in the sedentary physical demand level. Work hardening was performed from 01/03/03 through 01/24/03 for a total of four sessions. Dr. Bernstein prescribed Bextra, Darvocet, and Skelaxin on 01/13/03. On 01/14/03, Dr. McClure recommended a chronic pain management program. On 01/28/03, Dr. Nguyen recommended a neurological evaluation and continued active therapy. Dr. Buendia recommended continuing the pain management program on 02/14/03. On 02/25/03, Concentra wrote a note approving 10 sessions of the pain management program. Chronic pain management was performed with Ms. Stankovic from 03/25/03 through 05/06/03 for a total of 22 sessions. On 04/29/03, Dr. McClure recommended continuation of the pain management program. On 05/28/03, Dr. Ganc requested 10 more sessions of the pain management program. On 09/12/03 and 12/09/03, Dr. Buendia noted the claimant was pending a cervical spine discogram. On 11/03/03, Dr. Combs felt no further treatment was reasonable or necessary.

Disputed Services:

Office visits, psychiatric diagnostic interview (90801), psychological testing (90830), FCE (97750-FC), and a chronic pain management program (97799-CP) from 11/07/02 through 04/17/03

Decision:

The FCE on 12/05/02 would not be reasonable or necessary either. An initial psychological diagnostic interview (90801) and psychological testing (90830) would have been medically necessary prior to the consideration of a chronic pain management program in order to evaluate the individual's compatibility with a chronic pain management program. The 19 sessions of a chronic pain management program (97799-CP) would have been medically necessary which would include 02/25/03 through 04/17/03. The office visits (99205 and 99215) on 11/07/02 and 12/03/02 would have been reasonable and medically necessary.

Rationale/Basis for Decision:

I would consider this individual an appropriate candidate for a chronic pain management program. It was documented in the records, including the peer reviews that there was evidence of symptom magnification and psychological overlay. The individual voiced considerable subjective complaints despite the lack of significant objective findings. The psychological testing and evaluation would have been appropriate and the attendance of up to 20 days of a chronic pain management program would have been appropriate. I should note that it is a common practice by some providers and some facilities to place individuals in both a work hardening and chronic pain program. Sometimes they will attend the chronic pain management program first and then work hardening or visa versa. For the most part however, these are mutually exclusive programs. It is noted that both programs contain a rehabilitative portion. Both programs contain a psychological portion. The work hardening program however, is primarily focused on the rehabilitation and the chronic pain management is primarily focused on the behavioral aspects. An individual would be placed in one or the other program depending upon their major symptom needs. However, the goal at the end of either program is return to work.

The claimant however, would have been an appropriate candidate for chronic pain management. The support for this form of treatment is referenced in the Official Disability Guidelines (ODG) - Pain Chapter. On the other hand, it is noted that the length of a program should be limited to 20 visits. There is little support in the literature for programs that exceed 20 visits. According to information from the National Guideline Clearing House, as well as the Clinical Practice Guidelines for chronic non-malignant pain syndrome patients, on the evidence based approach there is no evidence to support exceeding a 20-treatment day limit. The guidelines indicate that regardless of the number of hours per day or days per week the patient is seen, research studies continue to show that affective outcome from such interdisciplinary treatment is accomplished within a maximum of 20 days. Therefore, any participation in the chronic pain program past the 20 day timeframe would not be deemed acceptable.

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 06/09/06 from the office of Professional Associates.

Sincerely,

Amanda Grimes
Secretary/General Counsel