



**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:  Neuromuscular Institute of Texas – PA 9502 Computer Drive, Suite 100 San Antonio, TX 78229	MDR Tracking No.: M5-06-1117-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:  American Home Assurance Company, 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. Position summary states, "Therapies were provided to relieve the effects of the compensable injury and return the injured worker to employment."

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

Documents include the DWC 60 response. Position summary states, "The carrier disputes that the provider has shown that the treatment underlying the charges was medically reasonable and necessary."

**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)
2-25-05 – 7-22-05	CPT code 97750	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$35.63
2-25-05 – 7-22-05	CPT code 99211	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$24.73
2-25-05 – 7-22-05	CPT code 99213 (\$61.89 X 5 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$309.45
2-25-05 – 7-22-05	CPT code 99080-73 (\$15.00 X 5 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$75.00
2-25-05 – 7-22-05	CPT code 95831	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$32.38
2-25-05 – 7-22-05	CPT code 97004	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$57.21
2-25-05 – 7-22-05	CPT code 97110	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0
	Total		\$534.40

**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 majority of the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is \$534.40.

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.

CPT code 99455-VR on 2-25-05 was denied with denial code "V" (unnecessary treatment with a peer review). CPT code 99455-VR is a DWC required report and not subject to an IRO review. This code was denied inappropriately. The billing of CPT code 99455-VR is in compliance with Rule 134.202(e)(6)(F). Reimbursement is recommended for CPT code 99455-VR. Recommend reimbursement of \$50.00.

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

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

**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 a refund of the paid IRO fee. The Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute in the amount of \$584.40. 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, Medical Dispute Officer

5-3-06

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:** M5-06-1117-01  
**NAME OF REQUESTOR:** The Neuromuscular Institute of Texas-PA  
**NAME OF PROVIDER:** Daniel Brad Burdin, D.C.  
**REVIEWED BY:** Licensed by the Texas State Board of Chiropractic Examiners  
**IRO CERTIFICATION NO:** IRO 5288  
**DATE OF REPORT:** 04/06/06

Dear Neuromuscular Institute of Texas-PA:

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:

Decision and Order letters dated 07/14/03, 08/19/04, 01/10/05, 03/14/05, 06/23/05, 06/30/05, and 08/15/05  
Evaluations with Brad Burdin, D.C. dated 07/30/04, 08/18/04, 09/29/04, 11/12/04, 02/25/05, 03/24/05, 04/14/05, 05/13/05, 06/01/05, 06/15/05, 07/25/05, 08/31/05, 09/29/05, 10/28/05, 11/29/05, 01/06/06, 01/31/06, and 03/03/06  
TWCC-73 forms filed by Dr. Burdin dated 07/30/04, 08/18/04, 11/12/04, 12/13/04, 12/17/04, and 02/17/05  
Chiropractic therapy with Dr. Burdin dated 07/30/04, 08/03/04, 08/04/04, 08/09/04, 08/12/04, 08/13/04, 08/16/04, 08/18/04, 08/20/04, 8/23/04, 08/25/04, 08/27/04, 09/01/04, 09/03/04, 09/08/04, 09/09/04, 10/06/04, 10/07/04, 10/08/04, 10/13/04, 10/15/04, 10/21/04, 10/22/04, 10/27/04, 10/29/04, 11/03/04, 11/04/04, 11/05/04, 11/17/04, 11/18/04, 11/23/04, 11/24/04, 12/04/04, 12/03/04, 12/05/04, 12/09/04, 12/10/04, 12/13/04, 12/17/04, 12/23/04, 12/29/04, 01/06/05, 01/07/05, and 08/31/05  
An MRI of the left knee interpreted by James P. Pak, M.D. dated 08/03/04

Evaluations with Patrick H. Wilson, M.D. dated 08/23/04, 09/23/04, 09/30/04, 10/21/04, 11/13/04, 12/16/04, 05/23/05, 07/07/05, 08/25/05, 09/15/05, 10/11/05, 10/24/05, 11/29/05, and 01/10/06  
Operative reports with Dr. Wilson dated 09/15/04 and 08/17/05  
A Required Medical Evaluation (RME) with Charles W. Kennedy, M.D. dated 01/19/05  
An RME with Richard S. Levy, M.D. dated 02/23/05  
Functional Capacity Evaluations (FCEs) with Kipp Clayton, O.T.R. dated 02/23/05, 10/26/05, and 01/30/06  
A work conditioning program with Mr. Clayton dated 03/08/05, 03/10/05, 03/11/05, 03/14/05, 03/15/05, 03/16/05, 03/18/05, 04/18/05, 04/19/05, 04/20/05, 04/21/05, and 04/22/05  
An addendum report from D. Rod Lee, M.D. dated 03/30/05  
Evaluations with Mr. Clayton dated 05/17/05, 09/02/05, 11/11/05, and 12/07/05  
Physical therapy was performed with Mr. Clayton on 06/06/05, 06/13/05, 06/15/05, 06/22/05, 06/24/05, 06/27/05, 06/29/05, 07/01/05, 07/06/05, 07/11/05, 07/20/05, 07/22/05, 09/06/05, 09/09/05, 09/15/05, 09/16/05, 09/21/05, 09/22/05, 09/26/05, 09/29/05, 10/06/05, 10/07/05, 10/12/05, 10/20/05, 10/21/05, 10/24/05, 10/28/05, 11/04/05, 11/07/05, 12/20/05, 12/28/05, 12/30/05, 01/04/06, 01/06/06, 01/10/06, 01/11/06, and 01/16/06  
A letter written by Dr. Kennedy on 08/10/05  
Medical dispute resolution findings and decision forms from Donna Auby and Dee Torres dated 08/11/05 and 08/26/05  
An IRO review from Dr. Roger Glenn Brown (no credentials were listed) dated 08/23/05  
A letter from Flahive, Ogden & Latson Attorneys at Law, P.C. dated 03/10/06  
A letter from Samuel Peralez, from the Billing Department of NIT dated 03/17/06

### **Clinical History Summarized:**

On 07/14/03, a decision and order hearing determined no reimbursement of medication to the patient. Chiropractic therapy was performed with Dr. Burdin from 07/30/04 through 08/31/05 for a total of 44 visits. An MRI of the left knee interpreted by Dr. Pak on 08/03/04 revealed tears of the posterior horn and free edge of the posterior horn and a small joint effusion. Dr. Wilson performed unknown knee surgery on 09/15/04. On 09/23/04, Dr. Wilson prescribed long leg support stockings. On 09/29/04, Dr. Burdin recommended physical therapy. On 11/18/04, Dr. Wilson prescribed an unloader knee brace. A Decision and Order hearing on 01/10/05 determined no reimbursement for services provided from 04/14/03 through 06/09/03, the office visit on 08/04/03, and the treatment on 10/02/03. On 01/19/05, Dr. Kennedy placed the patient at Maximum Medical Improvement (MMI) with a 1% whole person impairment rating. An FCE with Mr. Clayton on 02/23/05 noted that he felt the patient could not tolerate his job duties. The work conditioning program was performed with Mr. Clayton from 03/08/05 through 04/22/05 for a total of 12 sessions. A Decision and Order form on 03/14/05 determined no reimbursement for treatment from 02/19/03 through 04/17/03. Another FCE with Mr. Clayton on 05/17/05 determined another three weeks of work hardening would be reasonable. Physical therapy was performed with Mr. Clayton from 06/06/05 through 01/16/06 for a total of 37 sessions. On 06/15/05, Dr. Burdin recommended preauthorization for surgery. On 06/23/05, a Decision and Order determined no reimbursement for treatment from 07/22/03 through 04/07/04. On 08/10/05, Dr. Kennedy wrote a note stating the impairment rating would not change whether or not he had surgery and noted he felt the date of MMI and impairment rating were appropriate. On 08/11/05, Ms. Auby filed a medical dispute resolution ordering remittance of money from the insurance carrier. On 08/15/05, a Decision and Order determined no reimbursement for treatment of 06/18/03 through 06/26/03. Dr. Wilson performed a medial meniscectomy, radial tear repair, and lateral release on 08/17/05. An IRO on 08/23/05 agreed with the insurance carrier about the medical necessity of treatment from 09/03/04 through 10/27/04. On 10/26/05, an FCE with Mr. Clayton determined the patient could return to work with restrictions. Another FCE with Mr. Clayton on 01/30/06 determined the patient could return to work with restrictions. On 01/31/06, Dr. Burdin recommended a work conditioning program, but did not on 03/03/06. On 03/10/06, it was noted a Contested Case Hearing (CCH) had been scheduled. Mr. Peralez wrote a letter regarding a dispute of services from 02/25/05 through 07/22/05 for 21 sessions.

### **Disputed Services:**

Physical performance test/measurement, office visits, DWC-73 report, muscle testing, occupational therapy reevaluation, and therapeutic exercises from 02/25/05 through 07/22/05

### **Decision:**

I partially agree with the requestor. The physical performance testing, office visits, DWC-73 report, muscle testing, and the occupational therapy reevaluation from 02/25/05 through 07/22/05 were medically necessary to treat the patient. However, the therapeutic exercises from 02/25/05 through 07/22/05 were not medically necessary to treat the patient.

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

According to the medical records provided for my review, the patient injured his left knee on 07/19/04. He underwent surgery to the left knee on 09/15/04, which included a partial medial menisectomy. The patient began postoperative rehabilitation on 10/06/04. According to the guidelines in "Rehabilitation After Meniscal Repair" by Shelbourne and Patel from Clinical Sports Medicine July 1996 and "Menisectomy, Indications and Management" by O'Donoghue from Physical Therapy, Volume 60, December 1980, postoperative rehabilitation for a partial medial menisectomy can last up to 12 weeks. According to these same publication, after 12 weeks, if the patient still has functional and/or conditioning deficits, they should be referred to an occupational rehabilitation (work hardening or work conditioning). The services in questions from 02/25/05 through 07/22/05 include physical performance testing, muscle testing, and occupational therapy reevaluation were medically necessary in order to have baseline and follow-up parameters in order to track the patient's progress with the program. With regards to the DWC-73 report, this report was medically necessary to document any changes in the patient's work status. With regards to the follow-up office visits, these were medically necessary in order for the treating doctor to evaluate her condition and assess treatment plans. With regards to the therapeutic exercises, the patient had three months of postoperative treatment that included therapeutic exercises and was beyond the time period for physician guided therapy per the previously mentioned guidelines.

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

Sincerely,

Lisa Christian  
Secretary/General Counsel