



Notice of Independent Review Decision

SENT TO: Texas Department of Insurance
Health & Workers' Compensation Network Certification and QA
Division (HWCN) MC 103-5A
Via E-mail IRODecisions@tdi.state.tx.us

Allied Multicare Centers
Melissa
415 Lake Air Drive
Waco, TX 76710-5837

Benchmark/Covenant Insurance
1420 W. Mockingbird #775
Dallas, TX 75247

Date of the Notice of the Decision – 10/24/07 Amended Date : 12/04/07
Amended Date: 12/12/07

RE: MDR Tracking #: **M5-08-0046-01**
Name:
Coverage Type: Workers' Compensation Health Care (Non-network)
Type of Review:
 Preauthorization or Concurrent Review
 Retrospective Review

CompPartners has been certified, certification number **5298**, by the Texas Department of Insurance (TDI) as an Independent Review Organization (IRO). TDI has assigned this case to the IRO for independent review in accordance with the Texas Insurance Code, the Texas Labor Code and applicable regulations.

The IRO has performed an independent review of the proposed/rendered care to determine if the adverse determination was appropriate. In the performance of the review, the IRO reviewed the medical records and documentation provided to the IRO by involved parties.

This case was reviewed by a Texas Licensed Chiropractor. The reviewer has signed a certification statement stating that no known conflicts of interest exist between the reviewer and the injured employee, the injured employee's

employer, the injured employee's insurance carrier, the utilization review agent (URA), any of the treating doctors or other health care providers who provided care to the injured employee, or the URA or insurance carrier health care providers who reviewed the case for a decision regarding medical necessity before referral to the IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

As an officer of **CompPartners**, I certify that:

1. There is no known conflict between the reviewer, the IRO and/or any officer/ employee of the IRO with any person or entity that is a party to the dispute, and
2. A copy of this IRO decision was sent to all of the parties via U.S. Postal Service or otherwise transmitted in the manner indicated above on **10/24/07 & 12/4/07 & 12/12/07.**

Right to Appeal

You have the right to appeal the decision by seeking judicial review. The decision of the IRO is binding during the appeal process.

For disputes *other than* those related to prospective or concurrent review of spinal surgery the appeal must be filed:

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

Sincerely,
Lee-Anne Strang
Senior Supervisor
CompPartners

IRO REPORT

DATE OF REVIEW: 12/11/07

AMENDED DATE : 12/4/07 &
12/12/07 & 01/04/07

IRO CASE #: M5-08-0046-01

NAME: _____.

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

Determine the appropriateness of the previous denial for CPT codes: 99213-Office visit, 97124-massage therapy, G0283-Electrical stimulation, 97110-therapeutic exercises, 98940, 98943 -chiropractic manual treatment, 97116-Gait training, 99080-73-DWC-report, 97530-therapeutic activities, 97112-neuromuscular reeducation. Dates of service 2/18/04-7/16/04.

ADDENDUM- Determine the medical necessity for additional dates of service of 3/19/04 and 5/10/04- with CPT code of 95831-59-manual muscle testing extremity separate procedure with report. (Excludes hand or trunk)

A DESCRIPTION OF THE QUALIFICATIONS FOR EACH PHYSICIAN OR OTHER HEALTH CARE PROVIDER WHO REVIEWED THE DECISION

Texas Licensed Chiropractor

REVIEW OUTCOME

Upon independent review the reviewer finds that the previous adverse determination/adverse determinations should be:

- Upheld (Agree)
- Overturned (Disagree)
- Partially Overturned (Agree in part/Disagree in part)

The previously denied request for CPT codes: 99213-Office visit, 97124-massage therapy, G0283-Electrical stimulation, 97110-therapeutic exercises, 98940, 98943 -chiropractic manual treatment, 97116-Gait training, 99080-73-DWC-report, 97530-therapeutic activities, 97112-neuromuscular reeducation. Dates of service 2/18/04-7/16/04.

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INFORMATION PROVIDED TO THE IRO FOR REVIEW

- Request for Payment of Independent Review Organization Fee (unspecified date).
- Notification of Independent Review Organization Assignment dated 9/28/07.
- Request for Medical Dispute Resolution (MDR) dated 9/28/07.
- Medical Dispute Resolution Requests/Responses (unspecified date).
- Table of Disputed Services dated 7/16/04 through 2/18/04.
- Explanation of Benefits dated 3/22/04 through 2/18/04.
- Initial Medical Narrative Report dated 1/5/04.
- Left Knee X-Ray Report dated 12/15/03, 12/12/03, 10/23/03.
- Initial Evaluation Report dated 12/15/03.
- Subsequent Encounter Report dated 12/19/03.
- Independent Medical Examination Report dated 4/22/04.
- Knee Impairments/Range of Motion Measurements dated 4/22/04.
- Report of Medical Evaluation dated 4/22/04.
- Texas Workers' Compensation Work Status Report dated 4/25/04.
- Progress/Physical Performance Evaluation Report dated 5/10/04, 3/19/04.
- Initial Behavioral Medicine Consultation Report/Addendum dated 7/26/04.
- Reconsideration/Behavioral Health Treatment Request dated 9/1/04.
- Requester's Summary for Pre-Authorization Dispute dated 9/8/04.
- Cover/Referral Gratitude Letter dated 8/20/04.
- Orthopedic Specialty Consultation Report dated 8/18/04.
- Follow-Up Visit Report dated 9/27/04.
- Medical Records Review Report dated 8/9/04.
- Peer Review Report dated 5/5/04, 4/27/04.
- Daily Notes Report dated 10/12/04 through 1/5/04.

PATIENT CLINICAL HISTORY [SUMMARY]:

Age: 56 years

Gender: Male

Date of Injury: _____

Mechanism of Injury: Stepping off a ladder when he slipped on a rung and began to feel pain and swelling in the left knee.

Diagnosis: Left knee lateral meniscus tear 836.1, left knee medial meniscus tear 836.0, left knee sprain, left ankle sprain 845.0, low back pain 724.2, and left hip strain 843.9

ANALYSIS AND EXPLANATION OF THE DECISION INCLUDE CLINICAL BASIS, FINDINGS AND CONCLUSIONS USED TO SUPPORT THE DECISION

This is a 56 year old male who sustained a work related injury on _____ when he was working as a maintenance supervisor for an apartment complex. He was on a ladder and slipped off the bottom step with his weight landing on his left leg. The provided diagnoses include references to left knee lateral meniscus tear 836.1, left knee medial meniscus tear 836.0, left knee sprain, left ankle sprain 845.0, low back pain 724.2 and left

hip strain 843.9 however the majority of the reports reflects that the left knee is the primary concern. He is 6'2" tall and weighs 262 pounds and is right hand dominant. There was a past history of a stated previous knee injury that had contradictory dates of 10/10/03, 10/23/03 and 11/12/03 as stated in the different reports in which the claimant was injured from a power washing incident and subsequently had modified duty and fluid aspirated off his left knee. He had been diagnosed with degenerative changes in the knee with spurring and effusion. The X-ray on 10/23/03 of the left knee indicted spurring on the patella, as well as spurring on the anterior tibial tuberosity with a question of lucency overlying the upper portion of the patella. The X-ray of the left knee on 12/12/03 indicated a fluid collection in the suprapatellar recess with a knee brace artifact over the frontal projection with no fracture seen. An MRI of the left knee was performed on 12/15/03, which identified an impression of a complex tear of the posterior horn of the medial meniscus, a liner tear of the posterior horn of the lateral meniscus which extends to the inferior articular surface, small amount of joint fluid and left knee osteoarthritis. The remainder of the cruciate and collateral ligaments is intact. An IME was performed by an orthopedic surgeon, G. Peter Foox, MD, who on 4/22/04 felt that this claimant did have pre-existing problems in the left knee, which was aggravated by the 12/12/03 injury, and that he was a surgical candidate, although this surgery was in dispute at that time. A physical performance examination was performed on 3/19/04 by a chiropractor Christopher Blair, DC, however, this report was inadequate in that there were no actual test findings for this reviewer to correlate with the summary, which was vague but he had 4.5/10 pain noted. A repeat Physical Performance Examination was performed on 5/10/04, indicating some worsening at now 8/10 pain with a note that his injury assessment questionnaire had not improved from the pervious testing. There was an initial behavior medicine consult report from Audrey Troup, MA, LPC, dated 7/26/04, which indicated that the claimant was treated for mental health issues in 1970 after returning from Vietnam and that he was currently having anxiety and depression issues. The claimant was seen by a board certified orthopedic surgeon, Robert L. Allred, MD, on 8/20/04. The claimant was walking without a limp. His left knee was noted as having a little bit of vastus medialis weakness. He was not able to work. He required arthroscopic left knee surgery. The office note, dated 9/27/04, indicated that Dr. Allred, MD, stated that the patient was getting along well with walking with his cane. The puncture sights were pristine and there was no fluid in his knee. The assessment was stated as "good early post operative course". He felt the claimant was ready for vigorous quadriceps strengthening. He will have post-operative therapy performed at Allied beginning on 9/28/07. The operative report and or accurate description of the actual surgery performed was not included. The daily progress notes from Allied Multicare Centers by Britton Myers, DC begin on 1/5/04 to 10/12/04 for approximately fifty eight (58) chiropractic and physical therapy sessions. The notes, specifically from 9/28/04 to 10/12/04, do not even mention that the claimant had surgery to the left knee and or that is why they were treating him. No post-operative mention whatsoever. The current dispute and current request regards determination of disputed services from 2/18/04 to 7/16/04 for what appears to be approximately thirty four (34) chiropractic and physical therapy visits provided for left knee pain. Consideration must be taken to the fact that this chiropractic provider did initially begin treatments on 1/5/04 for severe left knee pain. These notes were sadly of the "canned note" variety and do not even mention an objective findings section to support the claimant's subjective complaint to establish medical necessity for any treatments whatsoever within these notes provided for this review. There were no pain scale ratings, no ranges of motion, no neurological or orthopedic test finding

deficits, no areas of any type of palpatory findings, subluxation or fixation listing to establish medical necessity for manipulation of CPT code of 98940 spinal regions or 98943 extra spinal or extremity manipulations. There was no reference to any type of gait disturbances in these specific notes to support gait training with CPT code of 97116 and the notes only indicate “gait training was applied to gait training” which makes no sense. There was evidence of inappropriate billing practice with charges for office visits with CPT codes of 99213 which should not be charged on the same date as a manipulation charge. There were inappropriate billing practices, which indicate the provider charged for spinal manipulation 98940 on days when only the knee was mentioned, which should have been 98943 code for extraspinal region. There were no objective findings to support neuromuscular reeducation in the notes. There were no descriptions of what type of exercises or activities were performed, specifically to an area, and no times were documented for these services or to determine who even performed them, since none of the pages of notes have doctor signatures or staff signatures or initials. Any charges for electrical stimulation are not reimbursable since the notes only indicated the sentence of “this patient was treated with electric stimulation to electric stimulation,” making no sense whatsoever. The assessment section of these grossly inadequate canned notes were contradictory to the subjective section, which identified on most visits that the claimant was “the same” or “unchanged” from the last visit, then the assessment says “patients response to treatment is improving” again displaying contradictory information. There was no report submitted from this provider for the date of service of 3/1/04 to justify the reimbursement of this disputed charge on that particular date. The current request is to determine the medical necessity for dates of service of 2/18/04 to 7/16/04 including the following CPT codes of 99213-Office visit, 97124-massage therapy, G0283-Electrical stimulation, 97110-therapeutic exercises, 98940-chiropractic spinal manipulation one to two regions, 98943-chiropractic extraspinal manipulation/manual treatment (extremity), 97116-Gait training, 99080-73-DWC-report, 97530-therapeutic activities and 97112-neuromuscular reeducation. The medical necessity for this request was not found within the provided information and reference to the Official Disability Guidelines, Treatment index 5th edition, web based version regarding treatments for the knee. The first reference indicates that for physical therapy up to “9 visits over 8 weeks” is appropriate. This claimant far exceeded that guideline recommendation with this chiropractic provider since he did receive 9 visits as of 1/28/04. There was no evidence of any type of documented measurable or demonstratable improvements with this plan of care, and therefore, anything after 1/28/04 would not be medically necessary. Nevertheless, for the sake of correctness the actual references for the Official Disability Guidelines are provided regarding physical therapy, which specifically indicate that physical therapy has “Positive limited evidence. As with any treatment, if there is no improvement after 2-3 weeks the protocol may be modified or re-evaluated.” Therefore, technically, the care for this claimant regarding physical therapy should have stopped after a trial of 2-3 weeks since there was no evidence of lasting benefits, either subjectively or objectively, in this packet. Regarding manipulation for the knee specifically it is “Not recommended. There are no studies showing that manipulation is proven effective for patients with knee and leg complaints”. For massage therapy or (Myofascial release) the reference indicates that it is “Recommended as an option for osteoarthritis (OA). Massage therapy seems to be efficacious in the treatment of OA of the knee. Further study of cost effectiveness and duration of treatment effect is clearly warranted.” For therapeutic exercises and activities the reference indicates that “Exercise therapy is effective in improving symptoms of knee osteoarthritis, but its effect on structural change remains unclear”. Regarding electrical

stimulation or interferential current for knee complaints it only states that it is “Under study for recovery post knee surgery. Not recommended for chronic pain or low back problems”. Therefore, it is this reviewer’s opinion that first of all, there was no evidence of well documented measurable or demonstratable improvements either subjectively or objectively with the chiropractic manipulations and physical therapy received on any visit and it should have been stopped at best on 1/28/04. Secondly, the daily progress notes do not follow a specific SOAP note format. There are absolutely no objective findings given for over 53 visits to establish medical necessity for the services provided. There is evidence of inadequate documentation with regard to the modalities and procedures provided which lack appropriate descriptions, times and actual body parts treated therefore not meeting reimbursement criteria or establishing a medical necessity. Given this, this determination is to uphold the previous denial for this entire request regarding dates of service of 2/18/04 to 7/16/04.

ADDENDUM- The current request is for an addendum regarding medical necessity for additional dates of service of 3/19/04 and 5/10/04- with CPT code of 95831-59-manual muscle testing extremity separate procedure with report. (Excludes hand or trunk). The medical necessity for this CPT code 95831-59-manual muscle testing with report was not found with the provided Physical Performance Examination (PPE) dated 3/19/04 or 5/10/04. Careful review of the submitted PPE reports, performed by Christopher Blair, DC, indicated that the claimant was referred for “range of motion, manual muscle testing, isometric push pull, grip test and NIOSH lift tasks.” Both reports fail to provide actual manual muscle testing results with only a statement that “muscle testing revealed significant weakness in hip lateral rotation, hip medial rotation, left knee flexion (medially rotated,) left knee extension, ankle dorsi flexion/inversion, left foot inversion and left foot eversion.” There was absolutely no manually graded muscle test findings submitted in this report, therefore, this documentation does not meet the requirements for reimbursement for CPT code of 95831-59-manual muscle testing extremity separate procedure with report. Additionally, there was absolutely no reference in the daily notes with any type of subjective weakness complaint or objective graded muscle testing previously reflecting muscle weakness from the treating chiropractor or the notes from James Madsen, MD, dated 12/15/03, which indicated muscle weakness deficits existed on this claimant. Therefore, it is this reviewers opinion that these two dates of service for CPT code of 95831-59-manual muscle testing extremity separate procedure with report be upheld for denial due to lack of medical necessity and failure to provide adequate reporting concerning manual muscle testing with specific manually graded information for each muscle tested. The Official Disability Guidelines, Treatment index 5th Edition, web based version does not specifically indicate recommendations for manual muscle testing specifically as it relates to this claimant. Therefore, reference to support this adverse determination is found in the CPT code source web search at <http://www.myhealthscore.com/dbmf/consumer/cpt-4.dbm?timeout=240>.

Peer Reviewer Name: Sheri Coleman, DC
Specialty: Chiropractic

A DESCRIPTION AND THE SOURCE OF THE SCREENING CRITERIA OR OTHER CLINICAL BASIS USED TO MAKE THE DECISION:

- ACOEM – AMERICAN COLLEGE OF OCCUPATIONAL & ENVIRONMENTAL MEDICINE UM KNOWLEDGEBASE.
- AHCPR – AGENCY FOR HEALTHCARE RESEARCH & QUALITY GUIDELINES.
- DWC – DIVISION OF WORKERS’ COMPENSATION POLICIES OR GUIDELINES.
- EUROPEAN GUIDELINES FOR MANAGEMENT OF CHRONIC LOW BACK PAIN.
- INTERQUAL CRITERIA.
- MEDICAL JUDGEMENT, CLINICAL EXPERIENCE AND EXPERTISE IN ACCORDANCE WITH ACCEPTED MEDICAL STANDARDS.
- MERCY CENTER CONSENSUS CONFERENCE GUIDELINES.
- MILLIMAN CARE GUIDELINES.
- X** ODG – OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES.
The ODG, Treatment index, 5th edition, web based version regarding the knee <http://www.odg-twc.com/bp/836.htm#836.1> <http://www.odg-twc.com/bp/836.htm#836.0> Medical treatment: 9 visits over 8 weeks Post-surgical: 24 visits over 16 weeks <http://www.odg-twc.com/odgtwc/knee.htm#Physicaltherapy> <http://www.odg-twc.com/odgtwc/knee.htm#Manipulation> <http://www.odg-twc.com/odgtwc/knee.htm>
- PRESSLEY REED, THE MEDICAL DISABILITY ADVISOR.
- TEXAS GUIDELINES FOR CHIROPRACTIC QUALITY ASSURANCE AND PRACTICE PARAMETERS.
- TEXAS TACADA GUIDELINES.
- TMF SCREENING CRITERIA MANUAL.
- PEER REVIEWED NATIONALLY ACCEPTED MEDICAL LITERATURE (PROVIDE A DESCRIPTION).
- X** OTHER EVIDENCE BASED, SCIENTIFICALLY VALID, OUTCOME FOCUSED GUIDELINES (PROVIDE A DESCRIPTION).
<http://www.myhealthscore.com/dbmf/consumer/cpt-4.dbm?timeout=240>.

CompPartners, Inc. hereby certifies that the reviewing physician or provider has certified that no known conflicts of interest exist 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 the decision before the referral to CompPartners, Inc.
