April 22, 2014

Dr. Douglas Curran
INSERT ADDRESS

RE: PATIENT: R, Agustin
YOUR EVALUATION DATED 1/21/14
CLAIM NO.:

Dear Dr. Curran:

Thank you for your report of 1/21/14.

We have had your report reviewed by Phil Walker, expert on the *AMA Guides to the Evaluation of Permanent Impairment [Fifth Edition]*, and author of *The AMA Guides Made Simple.* Mr. Walker testifies across California as an expert witness on AMA ratings.

Mr. Walker has reviewed your report and provided the following analysis.

1. If you disagree with any portion of Mr. Walker's analysis, please identify the conclusion with which you disagree and provide the basis of your disagreement and the page and line reference to the AMA *Guides, Fifth Edition*, which supports your position.

2. If you do not indicate disagreement with a conclusion reached by Mr. Walker, we will then conclude that you are in agreement with that conclusion.

We will look forward to receiving your supplemental report.

Sincerely,

YOUR SIGNATURE

ANALYSIS OF YOUR REPORT OF 1/21/14 BY PHIL WALKER:

NOTES ON AND ISSUES IN REPORT:

1. Chiropractor Curran diagnoses the following:
    a. Probable tear of superior labrum, right
    b. Biceps tendon rupture, right, post surgical repair
    c. Cervical segmental dysfunction
    d. Tenosynovitis, right hand, post surgical repair
    e. Insomnia, unspecified
    f. Cervical radiculitis
    g. Myalgia/myositis
    h. Neuropathy of upper limb (unspecified)
    i. Biceps and Triceps sprain/strain, left
2. Allegedly, the Applicant suffered an injury on 2/27/03.
3. Chiropractor Curran reported on industrial causation of the following:
    a. Right shoulder pain: Industrial. Due to injury of 2/27/13.
    b. Right arm pain: Industrial. Due to injury of 2/27/13.
    c. Right hand/finger pain: **Non-industrial**
    d. Right foot pain: **Non-industrial**
    e. Left arm (biceps and triceps) pain: Industrial. Due to injury of 2/27/13.
    f. Heartburn: Outside scope of practice

g. Insomnia: **Non-industrial**

h. Cervical spine: Industrial. Ratable based on radiculopathy as shown by EMG/NCV of 5/16/12 and significant muscular guarding in the lower cervical spine

4. Chiropractor Curran found the Applicant mmi as of 1/21/14.

5. Chiropractor Curran notes that Dr. J. Philip Maloney found the Applicant permanent and stationary on 5/5/04 and that, as a result, the old PD rating system would apply. **That is correct.**

6. Chiropractor Curran then provided a rating under the Old System:

a. Spinal Disability: Category A: 10% Disability Precluding Very Heavy Lifting

b. This appears to relate to the cervical spine, right shoulder and arm, left shoulder and arm, and right grip strength and left grip strength. (However, it does not appear that the right shoulder or right arm became permanent and stationary until after 1/1/05 and would, therefore, be rated under the new system. The same would apply for right grip strength. The medical reports after 1/1/05 appear to relate to the right shoulder, right biceps, and right arm with infrequent reference to some pain in the left shoulder, neck pain, and mid-back pain.)

7. Chiropractor Curran also provide ratings under the AMA *Guides* at the request of the attorneys.

a. **Thoracic spine: DRE I: 0% WPI. CORRECT.**

b. **Cervical spine: ROM: 11% WPI. INCORRECT.**

1) The ROM method was used based upon radiculopathy at C7 and 8 per the EMG report of 5/16/12.

a) On p. 34 of the report, Chiro. Curran notes that the EMG/NCV of 5/16/12 of the upper extremity was

interpreted as showing Right C7(8) radiculopathy, very chronic, very active with notable subacute paraspinal changes, axonal, motor.

b) Chiro. Curran noted significant muscle guarding in the lower cervical spine paraspinal musculature bilaterally more so on the right on p. 34 of the report and at p. 16 of the report under physical examination.

c) The Range of Motion is correct. P. 380, lower right paragraph 4 indicates that the Range of Motion method should be used when the patien has radiculopathy at more than 1 level in the same spinal region. This patient allegedly has radiculopathy at 2 levels in the cervical spine region.

2) Range of Motion rating:

a) **Disorder**: IIB, p. 404: **7% WPI**

(1) This is based upon intervertebral disc or other soft-tissue lesion with none to minimal degenerative changes on structural tests

(2) Cervical is 4% WPI

(3) For each additional level, add 1% per level: He claims this is an addition of 2 levels = additional 4% WPI.
This is incorrect. As the only levels involved are C7 and C8, the C7 level is already incorporated in the 4% WPI. Adding 1 level totals 5% WPI.

(4) Chiropractor Curran claims the 4% WPI is combined with an additional 4% WPI for the additional levels. 4 C 4 = **7% WPI.**
This is incorrect. Even if these were combined, 4 C 4 = 8% WPI per the Combining table at the end of the AMA *Guides.*

(5) *As noted above, this is incorrect. The correct Disorder figure is 4% WPI + 1% WPI for a second level = 5% WPI.*

b) **Motion: 7% WPI**

(1) He gets the following measurements: (Impairments are per pp. 417-21)

[Correct impairment values per pp. 417-21 in italics.]

Motion	Measure	He gets	*Correct Imp*
Flex	37	0	*1% WPI*
Ext	24	2	*4% WPI*
Right lat	18	1	*2% WPI*
Left lat	21	1	*2% WPI*
Right Rot	40	2	*2% WPI*
Left Rot	44	1	*2% WPI*
TOTAL:		**7% WPI**	*13% WPI*

(2) However, none of these values is correct. P. 417, para. 5, p. 419, paragraph 5, and p. 420, paragraph 5, specify that the measurements must be done at least 3 times to obtain a valid set of 3 measurements, must fall within 5 degrees or 10% of the mean of a valid set, whichever is greater. And then the impairment rating is based on the greatest angle of a valid set.

(30 Per Chiropractor Curran, the measurements were only done once. Therefore, the correct measurements per pp. 417-21 of the AMA

Guides were not done and, as a result, there are no valid measurements to use for rating.

As a result, the **correct** number for "motion" is **0% WPI.**

c) **Nerve: 0% WPI**

(1) As Chiro. Curran contends that there is radiculopathy at C7 and C8, this number would be based on sensory and motor deficits at C7 and C8, per p. 424, Table 15-17. No impairment was given under this table.

d) TOTAL:

COMBINE 7 C 7 C 0 = **14% WPI**

Chiro Curran gets 11% WPI. He appears to be combining 4% WPI C 7% WPI C 0% WPI = 11% WPI.

Using his calculations, the only valid impairment would be, as follows:

Disorder: 4 + 1 = 5% WPI

Motion: 0% WPI

Nerve: 0% WPI

TOTAL: 5 C 0 C 0 = 5% WPI

<u>Therefore, the correct ROM rating is 5% WPI.</u>

c. **Right Elbow: ROM: 1% UE = 1% WPI. INCORRECT**

1) He got the following measurements:
(Imp. values are at pp. 472-74):

Motion	Right	Imp	*Corr.*	Left	Imp	*Corr.*
Flex	150		0		153	0
Ext	-9		0	*1*	-11	1
Pronat	63	1		72	0	*1*
Supin	69		0		81	0
	TOTAL:		1% UE		1% UE	
			CORR: 2% UE		*CORR. 2% UE*	

2) His totals come out to:

Right elbow: 1% UE = 1% WPI per p. 439

Left elbow: 1% UE = 1% WPI per p. 439

3) Correct totals are:

Right elbow: *2% UE = 1% WPI*

Left elbow: *2% UE = 1% WPI*

4) However, these results are incorrect because p. 20 specifies that measurements must be consistent, reproducible, and reliable. That means they must be done at least 2 times and fall within 10% of each other. In this case, the measurements were not done 2 times and the 2 measurements did not fall within 10% of each other. The highest of the 2 would be used for rating per pp. 472-74.

As the measurements did not meet the criteria of p. 20, there are no correct measuremnts per the AMA *Guides*. As a result, the correct rating for the elbows is:

Right elbow: 0% UE = 0% WPI

Left elbow: 0% UE = 0% WPI

d. **Left Elbow: ROM: 1% UE = 1% WPI. INCORRECT.**

1) See comments about Right Elbow above. Same comments apply to left elbow.

e. **Right Shoulder: ROM: 16% UE = 10% WPI. INCORRECT**

1) He got the following measurements: (Imp. values are at pp. 472-74):

Motion	Right	Imp	*Corr.*	Left	Imp	*Corr.*
Flex	80		7% UE	105	5% UE	
Ext	49		0% UE	43	0% UE	*1%*
Abd	116		3% UE	92	4% UE	
Add	9		1% UE	14	1% UE	
Int. Rot.	26		4% UE	48	2% UE	
Ext.Rot.	48		1% UE	45	1% UE	
	TOTAL:		16% UE		14% UE	
						CORR. 15% UE

2) His totals come out to:

Right shoulder: 16% UE = 10% WPI per p. 439

Left shoulder: 14% UE = 8% WPI per p. 439

Correct: 15% UE = 9% WPI per p. 439

3) Correct totals are:

Right shoulder: *16% UE = 01% WPI*

Left shoulder: 15*% UE = 9% WPI*

4) However, these results are incorrect because p. 20 specifies that measurements must be consistent, reproducible, and reliable. That means they must be done at least 2 times and fall within 10% of each other. In this case, the measurements were not done 2 times and the 2 measurements did not fall within 10% of each other. The highest of the 2 would be used for rating per pp. 476-79.

As the measurements did not meet the criteria of p. 20, there are no correct measurements per the AMA *Guides*. As a result, the correct rating for the elbows is:

Right shoulder: 0% UE = 0% WPI

Left shoulder: 0% UE = 0% WPI

f. **Left Shoulder: ROM: 14% UE = 8% WPI. INCORRECT**

1) See comments under Right Shoulder. Same comments apply here.

g. **Right arm: Peripheral Nerve (Brachial Plexus): 3% UE = 2% WPI. INCORRECT**.

1) He reported decreased tactile sensation in the following at p. 39 of rpt:

a) Right middle finger: C7

b) Right Small finger: C8

2) He estimated the Sensory Deficit as Grade 4, 25% per p. 482.

3) He then uses Table 16-13 to get values for the nerves of:

a) C7: 25% x 5% UE = 1.25% UE

b) C8: 25% x 5% UE = 1.25% UE

TOTAL: 2.5% UE rounds up to 3.0% UE

3.0% UE = 2% WPI per p. 439.

4) This is incorrect for the following reasons:

a) Per p. 482, Table 16-10, sensory deficit must be evaluated using light touch/ monofilament testing AND two-point discrimination.

If a patient has impaired light touch/ monofilaments but normal 2-point discrimination, he is Grade 4, 1 - 25% sensory deficit.

b) According to the physical examination at pp. 15 -17, neither of these tests was done.

c) In the absence of these tests, the correct sensory deficit is 0% sens def.

d) C7: 0% x 5% UE = 0% UE

b) C8: 0% x 5% UE = 0% UE

TOTAL: 0% UE = 0% WPI

h. **Left arm: Peripheral Nerve (Brachial Plexus): 2% WPI INCORRECT.**

1) He reported decreased tactile sensation in the following at p. 39 of rpt:

a) Upper lateral left arm: C5

b) Left middle finger: C7

c) Upper medial left arm: T1

2) He estimated the Sensory Deficit as Grade 4, 25% per p. 482.

3) He then uses Table 16-13 to get values for the nerves of:

a) C5: 25% x 5% UE = 1.25% UE

b) C7: 25% x 5% UE = 1.25% UE

c) T1: 25% x 5% UE = 1.25% UE

TOTAL: 3.75% UE rounds up to 4.0% UE

4.0% UE = 2% WPI per p. 439.

4) This is incorrect for the following reasons:

a) Per p. 482, Table 16-10, sensory deficit must be evaluated using light touch/ monofilament testing AND two-point discrimination.

If a patient has impaired light touch/ monofilaments but normal 2-point discrimination, he is Grade 4, 1 - 25% sensory deficit.

b) According to the physical examination at pp. 15 -17, neither of these tests was done.

c) In the absence of these tests, the correct sensory deficit is 0% sens def.

(1) C5: 0% x 5% UE = 0% UE

(2) C7: 0% x 5% UE = 0% UE

(3) T1: 0% x 5% UE = 0% UE

TOTAL: 0% UE = 0% WPI per p. 439

i. **Right arm: Grip Strength: 10% UE = 6% WPI INCORRECT.**

1) He concludes this is due to radiculopathy or and/or decrease in use. If so, then it should be rated under the "Nerve" component in the Range of Motion rating.

2) Grip strength is only used for rating in 2 situations under the AMA *Guides:*

a) When the patient has a tear of a muscle in the arm (such as a biceps tendon rupture) leaving a palpable muscle defect per p. 508. **PRESENT HERE.**

(1) Per p. 18 of report, the patient had a biceps tendon rupture and underwent surgery for this in May, 2003.

(2) Per p. 19, entry 15), the patient had undergone right shoulder manipulation under anesthesia and right long head of the biceps tenodesis.

OR

b) After surgery for lateral or medial epicondylitis per p. 507, Section 16.7d for Tendonitis. **NOT PRESENT HERE.**

3) Per p. 508, if you do not have one of the 2 situations above, then the impairment ratings based on objective anatomic findings take precedence. That would be the range of motion measurements based on anatomic findings.

Therefore, grip strength cannot be used here as the patient does not qualify for a grip strength rating under the AMA *Guides.*

The correct grip strength rating is:

Right grip: 0% UE = 0% WPI

Left grip strength: 0% UE = 0% WPI

4) P. 508 indicates that grip strength measures power weaknesses relating to the structures in the hand, wrist, or forearm.

5) Per p. 8 of the report, the patient reports right arm pain 100% of the time. The patient indicates the pain is .ocated in the biceps and triceps muscles of the right arm.

6) Per p. 8 of the report, the patient reports pain in the right hand 100% of the time.

j. **Left arm: Grip Strength: 20% UE = 12% WPI**
INCORRECT

1) He concludes this is due to radiculopathy or and/or decrease in use. If so, then it should be rated under the "Nerve" component in the Range of Motion rating.

2) Per p. 508, if you do not have one of the 2 situations above--biceps tendon rupture or surgery for lateral or medial epicondylitis-- then the impairment ratings based on objective anatomic findings take precedence. That would be the range of motion measurements based on anatomic findings. **NEITHER PRESENT HERE FOR LEFT ARM.**

Therefore, grip strength cannot be used here as the patient does not qualify for a grip strength rating under the AMA *Guides.*

The correct grip strength rating is:

Left grip strength: 0% UE = 0% WPI

4) P. 508 indicates that grip strength measures power weaknesses relating to the structures in the hand, wrist, or forearm.

5) Per p. 8 of the report, the patient reports pain in the left arm 100% of the time. Per p. 508, grip strength cannot be used when patients have painful conditions which prevents the effective application of maximal force.

6) Therefore, in light of the patient's complaints of pain 100% of the time in the left arm, grip strength cannot be used for rating per p 508.

k. Add-on for pain: 0% WPI **CORRECT**

8. On p. 43 of the report, Chiropractor Curran finds a 6/28/07 industrial CT claim to the right hand and finger.

a. At p. 38, he provided an AMA rating of the right hand:

1) Right ring finger: MP Joint, short of full extension by 3 degrees. Per p. 464, Figure 16-25 = 0% UE.

a) This correct.

END OF ANALYSIS.