PEER REVIEW

CARRIER:	The Insurance Company
ADJUSTER:	Jane Smith
CLAIMANT NAME:	John Doe
DATE OF INJURY:	01/08/09
CLAIM NO:	WC123456
SOCIAL SECURITY NO:	XXX-XX-9876
EMPLOYER:	The School of Texas
DATE OF REVIEW:	02/17/10

DESCRIPTION OF INJURY:

01/08/09 – Employers First Report of Injury or Illness
The claimant was a 54-year-old male who reported a work injury that occurred on 01/08/09 while employed for The School of Texas ISD as a Special Education Aide. He alleged a student pulled a chair out from under him before he sat down, causing him to fall. The incident was reported on 01/08/09. His date of hire was reported to be 09/08/08.
Exhibit Page 1

01/08/09 – The School of Texas Nursing Report
Handwritten note dated 01/08/09, signed by the school nurse, noting the claimant presented to her office with complaints of pain to the back of his head and between his shoulder blades. He denied headache, dizziness, and auditory problems. He reported that when he was going to sit down in a chair, a student pulled the chair away and he fell to the ground, striking his head and upper back/shoulder area on the cinderblock wall. He had a quarter-sized bump on the crown of his head with a reddened area to the center. There was no active bleeding or abrasion. Pain was noted with palpation of right side of thoracic spine directly between the shoulder blades, with no bruising, no step off, and neurology intact to the arms and legs. A dime-sized bruise was noted with a superficial abrasion to the left inner elbow directly over the bony protrusion of the elbow, but it had normal motion. Motrin and application of ice/heat was recommended.
Exhibit Page 2

12/21/09 – PLN-11 Notice of Disputed Issues(s)
Filed on 12/21/09 by the carrier accepting the cervical strain, but no other conditions, including degenerative changes and radiculopathy, as the compensable injury.
Exhibit Page 3

REVIEW OF MEDICAL DOCUMENTATION/CASE SYNOPSIS:

01/08/09 – Doctor, M.D. – The Medical Group - Initial Evaluation

This handwritten note indicated the claimant fell on his elbow, shoulders, neck and head onto the wall and floor. Examination noted tenderness, edema to both shoulders, with an abrasion to the left elbow. He was diagnosed with head contusion, cervical strain, contusion to the shoulders and both elbows with left elbow abrasion. X-rays were ordered. Ibuprofen and Flexeril were ordered, as well as an MRI of the cervical spine and left elbow ASAP. Corresponding DWC Form 73 was signed by Dr. Doctor releasing the claimant to work with restrictions through 01/16/09.
Exhibit Page 4

01/08/09 – Radiologist, M.D. – Elbow, Shoulder, Cervical, and Skull X-Rays

- Elbow x-ray of the elbow noted degenerative changes but no evidence of a fracture.
- Left shoulder x-rays noted degenerative change with AC joint hypertrophy.
- Right shoulder x-rays noted AC joint hypertrophy degenerative change.
- Cervical spine x-ray noted focal asymmetrical degenerative disc disease and degenerative joint disease, suggesting ligamentous laxity and abnormal cervical vertebral body weight bearing with reparative buttressing bone formation. Dr. Radiologist recommended flexion and extension plain films and an MRI of the cervical spine.
- Skull x-ray was noted as normal, with no lesion seen.

Exhibit Page 6

01/16/09 – Doctor, M.D. - Progress Note

Claimant presents with complaints of pain to the neck and shoulder area. Current medications included Celebrex and Skelaxin. Handwritten examination findings were illegible. Skelaxin and a trial of Mobic were provided. The claimant was referred for a physical therapy evaluation. Corresponding DWC Form 73 was submitted continuing the claimant to work with restrictions through 12/23/09.
Exhibit Page 11

01/19/09 – Chiropractic Evaluation Form

Treatment was ordered 3 times a week for 3 weeks and an MRI of the cervical spine was needed. An EKG was also indicated. Pain was reported as 7 with medications. He reported diffuse pain to the mid back, mid scapula region, and he could not turn his head without moving his body. He reported that his whole back hurt. His reflexes were equal and sensory was decreased to light touch. Daily chiropractic notes included for dates 02/06/09 and 02/12/09.
Exhibit Page 13

01/27/09 – Cervical Spine MRI - Report and Films

An MRI, without dye, of the cervical spine was obtained and interpreted by Dr. Radiologist which noted paracentral disc protrusions at C5-C6 and C6-C7, greater than C3-C4 and C4-C5. There was neural impingement of C4-C6 nerve roots bilaterally, which could cause cervical radiculopathy and neck pain. Mild degenerative disc disease and degenerative joint disease consistent with age, involving both anterior and posterior elements of cervical spine were noted.
Exhibit Page 16 *Exhibit Page 17* *Exhibit 17a*

04/26/09 – Radiologist, M.D. – Left hand and wrist x-rays

- Left hand x-ray revealed soft tissue deformity and subacute to chronic bony irregularity along distal tuft of 4th digit, which could be inflammatory process versus prior trauma.

Diffuse soft tissue swelling of the hand was noted. If acute non-displaced fracture was suspected an MRI should be considered. Cellulitis would be in the differential also.

- Left wrist x-rays obtained on 04/26/09 revealed transverse lucency within metaphysic of distal radius which could represent a fracture and an MRI was recommended for correlation. Scapholunate joint was prominent suggesting a ligament injury as well.

Exhibit Page 18

1208/09 - Chiropractor, D.C. - Evaluation

Evaluation of the claimant for physical medicine and rehabilitation. Injury noted as the claimant falling backwards hitting his head and bending his neck against a brick wall after a student pulled his chair away. He immediately felt numbness and tingling in his neck to mid back. The claimant had presented for a previous evaluation on 01/19/09, but was unable to attend treatment due to a heart condition. He had shortness of breath and tachycardia causing referral to urgent care and a referral to the emergency room. He had several procedures to replace the mitral valve in his heart. He rated his neck and upper back pain at a 7 with referral of pain to his arms and mid scapula. He denied weakness, and paresthesia. MRI reviewed showed multilevel protrusions from C3 to C7. He had a lumbar fusion 25 years prior. Physical examination noted tenderness to the trapezius muscles, levator scapulae muscle on both sides, and loss of cervical motion. Foraminal compression test caused pain to radiate to the right arm with head rotated to the right and referred to mid back. Sensation was normal. Strength was 5/5. He had equal reflexes. Listed diagnoses were herniated disc, pain in thoracic spine, and cervical radiculopathy. Hot packs, joint mobilization, and therapy were ordered. Treatment length was noted as 6 visits, with re-evaluation on the 6th day.

Exhibit Page 20

12/09/09 - Doctor, M.D. - Follow-up examination.

Dr. Doctor noted the claimant was back, following his open heart surgery, to address his work related injury as symptoms of pain in his neck radiating to the extremities was moderate to severe. Physical evaluation revealed limited range of motion and trapezius tenderness to palpation. Upper extremities motor strength appeared to 4-5/5. The MRI reviewed showed protrusions at C5-C7, with neural impingement at C4-C6. He was diagnosed with radicular neck pain and neural impingement by MRI, failing conservative treatment. A Medrol Dospak was ordered. He was placed on light duty at work. It was noted he would be referred to an orthopedist for an evaluation.

Exhibit Page 24

01/11/10 - Orthopedic Surgeon, M.D. - MRI Scan Review

Dr. Orthopedic reviewed the claimant's MRI of the cervical spine and opined that it revealed at C5-C6 and C6-C7 contained disc herniation rated at stage II with annular herniation, nuclear protrusion, and spinal stenosis.

Exhibit Page 26

01/12/10 - Orthopedic Surgeon, M.D. - Office Visit

Initial evaluation for neck and bilateral arm pain. Dr. Orthopedic Surgeon noted he reviewed the MRI the previous day that revealed herniated nucleus pulposus at C5-C6 and C6-C7. He noted the claimant had a heart valve replacement in February 2009 and he had been approved by the cardiologist for surgery. The claimant was noted to be a teacher and wanted to return as rapidly as possible to work. It was noted that he had failed all conservative treatment including exercise,

medications, Epidural Steroid Injection (ESI) and presented for surgical consultation. X-rays including flexion and extension of the C5-C7 showed near bone on bone spondylosis and stenosis with osteophyte formation and anterior longitudinal ligament avulsion. He had lost all anterior column support and had complete collapse. Dr. Orthopedic Surgeon indicated it would need to be re-established with surgery. Examination noted limitation of motion, positive compression, positive shoulder abduction bilaterally, decreased bicep and brachioradialis jerk on right, weakness of elbow flexion, wrist extension on right, paresthesias in C6-C7 nerve root distribution on the right, C6 nerve root distribution on the left with negative Tinel and Phalen on the right. He was diagnosed with cervical herniated nucleus pulposus at C5-C7 with upper extremity radiculopathy, the right being greater than the left, with failure of conservative treatment, status post cardiac procedure. Dr. Orthopedic Surgeon recommended anterior cervical decompression, disceectomy and restoration of his disc space height at C5-C6 and C6-C7. The claimant understood the risks and wished to continue with the surgery.
Exhibit Page 27

RESPONSE TO SPECIFIC QUESTIONS:

1. Please read the MRI-CD films and give your opinion on the extent of injury. Is it degenerative in nature or a result of trauma?

I have reviewed the CD of the MRI that was performed on 01/27/09 and identify no acute structural changes, specifically no herniated discs. The claimant does have osteophyte/disc protrusions from C2 through C6. There is facet degenerative also identified. There is neural impingement at multiple levels, though not severe in my opinion.

With the claimant having these findings from C2 through C6, with no acute findings identified, it is more probable than not that these MRI findings are all pre-existing disease of life findings, not related to the work event per the following Texas Supreme Court decision:

The Texas Supreme Court has ruled that degenerative disc disease is “an ordinary disease of life” and thus not compensable per se. This finding was held in Kennedy vs Protective Insurance Company, Texas Supreme Court No 98-0562 (not published) . . . . with an appellate reaffirmation in Teague vs Charter Oak Fire Insurance Company Court of Civil Appeals, Austin, TX, March 23, 1977. Rehearing denied April 13, 1977 “injury does not include ordinary conditions of life to which the general public is exposed outside of the employment except where such conditions follow an incident of significance . . . . which would be considered acceleration or aggravation of an ordinary condition of life . . . degenerative disc disease is part of the aging process and there is not necessarily any relationship with the class of work which a person does and the fact that he may or may not have degenerative disc disease . . . “ These opinion are also substantiated by current peer reviewed literature.

The following peer reviewed literature identifies these types of changes in up to 93% of asymptomatic subjects, increasing with age.

- How about MRI
- Disc Degeneration

- 40 - 80% of asymptomatic adults,
- increases with age

- Disc protrusion
  - 40 - 70% of asymptomatic adults
- Endplate changes
  - 10-30% asymptomatic adults
- Annular disruption
  - 25 - 70% of asymptomatic adults

A random MRI with any of these findings will most likely come from an asymptomatic persons.
From Carragee NEJM 352;18 2006

MRI Results: "Normal"
Subjects (N = 67)

	Age	
	Under 60	Over 60
Herniated disc	22%	36%
Spinal Stenosis	1%	21%
Bulging disc	54%	79%
Degenerated disc	46%	93%

Boden et al, *JBJS*, 1990

- Imaging Hazards

A diagnosis based on MRI, in the absence of objective clinical findings, may not be the cause of a patient's pain, and an attempt at operative correction could be the first step toward disaster. Boden et al, *JBJS*, 1990

The physical examination findings immediately after the work event, as well as those identified on the 12/08/09 chiropractic exam identified normal neurological exam findings, including normal strength, sensation and reflexes. The exam findings did not identify cervical radiculopathy, though this was listed as a diagnosis. The claimant also denied weakness or paresthesia on this exam note.

The claimant was then seen by a surgeon on 01/12/10 and he identified decreased reflexes on the right, weakness in the right upper extremity, paresthesia in C6-7 nerve root distribution on the right and C6 on the left. The findings of the surgeon on 01/12/10 are the opposite of those findings reported from the 01/8/09 work event until that office visit. It is not medically probable based on my review of the cervical MRI imaging provided to me, coupled with the exam findings by other providers identifying no objective evidence of cervical radiculopathy, that the exam findings reported by the surgeon can be verified by other examiners.

Based on the above, it is not probable that the claimant sustained any acceleration or aggravation of the pre-existing disease of life findings from C2 through C7 as causally related to the 01/08/09 work event.

It is more probable than not that the extent of the work event was cervical strain, head contusion, elbow contusion. The effects of this would have resolved with or without any type of formal treatment, within 8 to 12 weeks from onset.

2. If the extent of injury is related to trauma, what is the compensable injury?

Please see above. Extent of the work event in all medical probability was a cervical strain, head contusion, elbow contusion.

3. Is treatment the direct result of the injury or his underlying pre-existing condition of cervical paracentral disc protrusion from C3 through C7, neural impingement of C4-5 and C6 nerve roots bilaterally and cervical radiculopathy?

None of the current treatment would be causally related to the effects of the 01/08/09 work event. It is more probable than not that the effects of the cervical strain and other contusions resolved with time.

4. Is surgery the direct result of the injury or his underlying condition?

There is no surgery reasonably required based on review of the cervical MRI imaging and based on review of all other examiners neurological findings other than the most recent from the surgeon.

Proposed surgery would not be causally related to the 01/08/09 work event. The claimant does not meet ODG criteria for proposed surgery based on review of the imaging and normal neurological physical exam findings.

OPINION DISCLAIMER:

I certify that I have no relationship or affiliation to the beneficiary of this independent review or significant past or present relationship with the attending provider and/or treatment facility. I further certify that I have no familial or material professional or business relationship, or incentive to promote the use of a certain product or service associated with the review of this case. I further certify that I have no direct or indirect financial incentive for a particular determination or ownership interest between any affected parties.

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 should not be used in violation of TDI-Division of Workers' Compensation rules or orders nor used to deny previously preauthorized care.

The opinions rendered in this case are the opinions of the reviewer. The review has been conducted without a medical examination of the individual reviewed. The review is based on documents provided with the assumption that the material is true and correct. If more information becomes available at a later date, an additional service or reconsideration may be requested. Such information may or may not change the opinions rendered in this report. This report is a clinical assessment of documentation and the opinions are based on the information available. This opinion does not constitute per se a recommendation for specific claims or administrative functions to be made or enforced.

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Electronically signed

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