

RECEIVED

Aug 09 2022

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE
SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION

Gene McCaskill, Commissioner
R. Michael Campbell, II, Commissioner
T. Scott Beck, Commissioner

SCWCC File No. 1508995

Appellate Case No. 2018-001964

Samuel Paulino, Claimant

Respondent,

v.

Diversified Coatings, Inc.,
Employer, and AmGuard Ins.
Co., Carrier

Appellants.

APPENDIX

VOLUME II of II

Stephen N. Garcia
Bar No. 76191
Garcia Law, LLC
604 Pettigru Street
Greenville, South Carolina 29601
(864) 271-7335
Stephen@scgarcialaw.com
Attorney for Respondent

UPSTATE MEDICAL REHABILITATION

Name: Samuel Paulino DOB: [REDACTED] SSN: [REDACTED]

Who referred you to our office? Dr. Timothy P. McHenry

Reason for visit: Pain When did it start? 17 Jan Worn in shoe hump

Is this problem work related? ☒ Yes ☐ No - maintain clean PCA Back pain

Did you symptoms begin... ☐ suddenly ☒ gradually

How long have you had these symptoms? ☐ days ☐ weeks ☐ months ☐ years

Have you been evaluated by other doctors for this problem? ☒ Yes ☐ No

If yes, by whom? improved after surgery When?

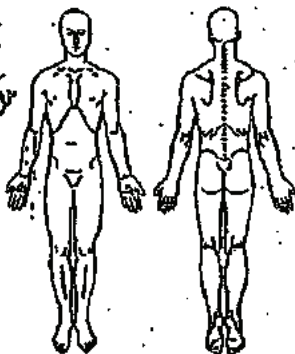
Please circle the level of pain that is roughly equal to your average pain level without medication.

1 2 3 4 5 6 7 8 9 10 (0 = no pain and 10 being the most severe pain imaginable)

Circle the level of pain that is roughly equal to your average pain level with medications.

1 2 3 4 5 6 7 8 9 10 (0 = no pain and 10 being the most severe pain imaginable)

11/13/15
Surgical



Previous Treatments for this problem only:

☒ Physical Therapy ☒ Chiropractic Treatment

☐ Trigger Point Injection ☐ Epidural

☐ Facet Injection ☐ Nerve Block ☐ TENS Unit

☐ Sacrospin Joint Injection

Medications: (list)

July 30 2015
left side
micradisc
Dr. P. P.

Still
Back > leg
T.P.N.
L5 in leg
weaken
pain
P.B.B.
P.F.
Q. ur. lvs.
Q. cu
postop

Review of systems: (Circle all that apply)

General: unexpected weight loss, weight gain, fevers, chills, fatigue, decreased appetite, headaches

Eyes: glaucoma, cataracts, eye surgery, blindness, eye pain, blurry vision, decreased vision

Ears/Nose/Throat: hearing loss, hearing aids, sinus infections, dentures, thyroid enlargement

Tramadol
50
Neurontin

H P FORM (2)

Cardiovascular: chest pain, heart disease, heart attack, palpitations, abnormal heart rhythm, heart murmur, prosthetic heart valve, Coumadin, Anticoagulation, aneurysm

Pulmonary: shortness of breath, COPD, asthma, emphysema, sleep apnea, coughing

Gastrointestinal: vomiting, nausea, constipation, acid reflux, heartburn, stomach ulcer, diarrhea, blood in stool, black tarry stool

Urinary: incontinence, bladder urgency, bladder infection, kidney infection, kidney stones, blood in urine

Endocrine (Hormones): diabetes, thyroid disease, menopause, hot flashes

MS: joint pain (Which? _____), muscle pain, recent broken bones or injury, swelling

Skin: cancer (If yes, type? _____), rash, cellulitis, infections

Neurologic: history of stroke (CVA), dizziness, fainting/syncope, tingling, numbness, memory problems, headaches, poor balance, dizziness/vertigo, spasticity, spinal cord injury, cerebral palsy, brain injury

Hem/lymph: anemia, bleeding disorder, leukemia, edema/swelling in legs, lymphadenoma

Immunologic: HIV, AIDS, hepatitis, sexually transmitted disease, shingles

Psychological: depressions, anxiety, suicidal thoughts, suicidal attempts in past, bipolar disorder (manic depressive), personality disorder, recent counseling, psychiatric hospitalization in past

Past Medical History: (check all that apply to you) ☐ None

- | | | | | |
|--|---|--|--|---------------------------------------|
| ☐ High blood pressure | ☐ Diabetes | ☐ High cholesterol | ☐ Heart disease | ☐ Heart attack |
| ☐ Bleeding disorder | ☐ Sleep disorder | ☐ Hepatitis A, B, C | ☐ Depression | ☐ Anxiety |
| ☐ Anemia | ☐ Reflux | ☐ Seizures | ☐ Blood clots | ☐ Osteoporosis |
| ☐ Kidney (renal) problems | ☐ Stomach ulcers | ☐ Sleep apnea | ☐ Obesity | ☐ Fractures |
| ☐ History of stomach bleeding? | | ☐ Osteoarthritis? (Which joints?) | | |
| ☐ Rheumatoid Arthritis? (Which joints?) | | ☐ Cancer (type?) | | |
| ☐ Thyroid Disease (Hypo/Hyper) | | ☐ Alcoholism, now or in the past | | |
| ☐ Abnormal heart rhythm | | ☐ Drug abuse or addiction | | |

Female Patients: Is there any chance at all that you could be pregnant? ☐ Yes ☐ No

Past Surgical History: Check all that apply to you ☐ No Surgeries

- | | | | |
|--|--|---|--------------------------------------|
| ☐ Appendectomy | ☐ Tonsillectomy | ☐ Gallbladder surgery | ☐ Eye surgery |
| ☐ Hip surgery for fracture (left/right/both) | | ☐ Hip replacement (left/right/both) | |
| ☐ Coronary bypass (when?) | | ☐ Knee Arthroscopy (left/right/both) | |
| ☐ Knee replacement (left/right/both) | | ☐ Foot/ankle surgery | |
| ☐ Carpal tunnel surgery (left/right/both) | | ☐ Hysterectomy (partial/complete) | |
| ☐ Cervical fusion: When? _____ By Doctor: _____ | | | |
| ☐ Lumbar Laminectomy or Discectomy: When? _____ By Doctor: _____ | | | |
| ☐ Lumbar spinal fusion: When? _____ By Doctor: _____ | | | |
| ☐ Other Surgeries (Please List) <u>Lumbar 3-4 microdiscectomy</u> | | | |

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 11/13/15

Medications: (Please list all of your current medications. BRING THEM TO YOUR FIRST APPOINTMENT)
☐ I take no medications currently

Medications	Dosage (mg)	How many per day
TRAMADOL	50 mgs.	Every 6 hours.

List any medication allergies: Ø

Check if you have an allergy to: ☐ Latex (such as "rubber" gloves) ☐ Contrast Dye Ø

List any Medication adverse reactions:

Family Medical History (Mom, Dad, Siblings, Grandparents):

☐ No significant family history

☐ Non-Contributory

☐ Heart Disease: Who

☒ High Blood Pressure: Who Mother

☒ Diabetes: Who Both Parents

☐ Cancer: Type Who

☐ Stroke: Who

H P FORM (2)

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Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 11/13/15

Social History

Marital Status: ☐ Single ☒ Married ☐ Divorced ☐ Separated ☐ Widowed
Education: (highest level achieved) ☐ Grade School ☐ High School ☒ College/University ☐ Grad School
Tobacco Use: ☐ Yes ☒ No Type: _____ Per day: _____ Years in total: _____ Date Quit: _____
Alcohol Use: ☐ Yes ☒ No Type: _____ Frequency: _____ Alcoholic Date Quit: _____
Drug Use in past or present: ☐ Yes ☒ No Type: _____ Frequency: _____ Date Quit: _____
Exercise: ☒ Walking ☐ Running ☐ Biking ☐ Swimming ☐ Gym Workouts
How far can you walk before you have to rest? ☒ <50 feet ☐ block(s) ☐ miles ☐ Unlimited

Work Status

☐ Currently Working ☐ Employed, but not currently working ☒ Unemployed
I am working: ☐ Full Time ☐ Part Time
Duty Status: ☐ Full Duty ☐ Light Duty ☐ Modified Duty

Litigation

Do you have an attorney handling this matter? ☐ Yes ☒ No
Is there a pending lawsuit or other litigation regarding this matter? Yes ☐ No ☒

Who do you see for your general medical care? (Your primary medical doctor?)

Full MD Name: New Horizons Practice: _____

Address: _____

List any doctor that has previously treated you for pain or disability (s):

MD Name: _____ Location: _____

MD Name: _____ Location: _____

Paulino Bautista - P 229 11/13/15

H P FORM (2)

Scan on 11/18/2015 3:45 PM by Denise Harnesberger : UMR.2015.11.13 CONSENT AND AUTH (below)

ORTHO/NEURO PATEWOOD C-100
200 Patwood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 11/13/15



Consent/Authorization
Greenville Health System

CONSENT AND AUTHORIZATION - URG

*Final K. Samuel
W. M. B. E. C. L. L. E. A.
K. L. M. P. E. A.
F. A. L. A. - H. O. R. A.
F. A. M. I. L. Y. - T. E. S. T. I. N. G.*

The following are conditions for services provided by the Greenville Health System (GHS) for the above-named patient:
CONSENT AND AUTHORIZATION FOR ROUTINE TREATMENT: I consent to and authorize GHS and my health care providers to provide or order routine health care services, including diagnosis and laboratory procedures that in the judgment of my provider(s), are necessary. Unless otherwise directed with me, I authorize GHS to dispose of specimens, tissues, medical devices, or implants removed from my body during my treatment. I agree that laboratory procedures that may be ordered could include testing for HIV, Hepatitis, and other diseases categorized as sexually transmissible diseases. I can tell my provider I do not want to be tested for any and all of these diseases. If test results are positive, they will be shared with me.
PHYSICIAN: I understand that physicians who are members of the GHS medical staff and who practice in GHS facilities may not be employees or agents of GHS. I understand that GHS is not responsible for any act or omission by a physician who is not an employee or agent of GHS. I understand GHS is a medical teaching institution and that students and residents may be involved in my care with reasonable medical supervision.
ASSIGNMENT OF INSURANCE BENEFITS AND THIRD PARTY CLAIMS: If my account is not paid at the time of my visit, I hereby assign to GHS any and all rights, including proceeds, I may have from the following: TRICARE (major medical benefits, PIP (personal injury protection), sick benefits, physician benefits (including any benefits payable to physicians who are not employees or agents of GHS), injury benefits, or any other health, accident or welfare benefits of any type or kind, whether insured or self-insured, proceeds of any liability settlement or judgment being paid by or on behalf of a third party, or any other benefits due from the insurance policy. I also assign to GHS any insurance policy or benefit payable to GHS (such as a group-term life insurance policy, and other private physicians) I warrant and represent that any insurance or any plan which I own in whole or in part, in effect and that I have the right to make this assignment. All amounts collected will be applied to my account. I understand that I am responsible for any charges not covered by insurance, including Medicare, Medicaid, or any other benefits. In the event a claim for payment submitted by GHS to my insurance carrier or plan administrator is denied, I hereby authorize GHS to seek an administrative review of the disputed claim in accordance with the applicable procedure(s) of my plan or policy, appeal or file a lawsuit as a last resort. If my plan or policy is provided pursuant to the Federal Employees Health Benefits Act, 5 U.S.C. 8901, et seq., this review process will include, but is not limited to, a review by the Office of Personnel Management. In the event I am a participant beneficiary of an employee welfare benefit plan governed by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1101, et seq., I designate GHS as my authorized representative and grant to GHS the authority to act on my behalf in pursuing and appealing a benefit determination under this plan, including Medicare and Medicaid. Such authority shall include the right to request and receive a copy and/or summary of the plan description.
FINANCIAL RESPONSIBILITY: I understand that I am obligated to pay my account according to the regular rates and terms of GHS, except for those services provided in accordance with a clinical research trial, which are specifically identified in writing as services for which I am not obligated to pay. If the benefits received by GHS exceed the charges on my account, I authorize GHS to apply the overpayment to any other outstanding account(s) with GHS or GHS entities, which include GHS Partners in Health, Inc., Greenville Health Corporation, and/or any other entity that is or becomes a part of GHS. If there is no other outstanding account for which I am responsible, the payment will be posted to the intended account and a refund processed accordingly. I understand that GHS may obtain my credit report for review in connection with this account. In the event that this account is placed with a collection agency or an attorney for collection, I will be responsible for payment of all costs of collection, including attorney's fees.
MEDICARE PATIENTS: Should I be eligible for Medicare coverage, I request that payment of authorized Medicare benefits be made to GHS on my behalf. This information given by me is correct. In applying for payment under Title XVII of the Social Security Act.
CONTACTING PATIENTS: I hereby authorize GHS to contact me through the information provided at the time of registration.
NOTIFICATION OF RIGHTS: I understand that you and disclosure of my personal and health information are described in the GHS Notice of Privacy Practices. This includes providing my information to other providers for my continuing care, to my medical education, peer review and outcomes analysis activities. I understand that my personal and health information will be made available to providers through the GHS Health Information Exchange as described in the Notice of Privacy Practices. I acknowledge by signing below that I have received a copy of the GHS Notice of Privacy Practices.
PHOTOGRAPHING: I consent to GHS taking photographs for purposes of identification, diagnosis, treatment, education, and research. Photographs that could identify me will be used only for internal medical record identification purposes unless I specifically sign and sign an additional written document.

CONDITIONS FOR CARE: ALTERATIONS VOID: I understand that the above are conditions for care and treatment at GHS. Any alteration to the scope of any of the conditions above are void and will not change the conditions as stated. I understand that by signing this form, or making a verbal statement at GHS, I agree to the terms of this consent and authorization as "yes" form.

SIGNATURE OF PATIENT/LEGALLY AUTHORIZED REPRESENTATIVE

PRINTED NAME AND RELATIONSHIP IF OTHER THAN PATIENT

DATE 11-12-15 TIME 8:00 AM

SIGNATURE OF WITNESS DATE TIME

SIGNATURE OF WITNESS DATE TIME

(SECOND WITNESS FOR TELEPHONE CONSENT OR SIGNATURE WITH "X" OR MARK)

CONSENT AND AUTHORIZATION - URG

10007 01/11
CONSENT/AUTHORIZATION

PAGE 1 OF 1

Order-Level Documents:

There are no order-level documents.

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 01/05/16

Visit Summary

Reason for Visit

Right Hip - pain
Right Leg - pain

Diagnoses

Sacroiliac inflammation - Primary
Chronic low back pain
Herniated nucleus pulposus, L3-4 right
Lumbar radiculopathy, chronic

Problem List as of 1/5/2016

Date Reviewed: 1/5/2016

	Codes	Priority	Class	Noted - Resolved
Leg pain, right	ICD-9-CM: 729.5 ICD-10-CM: M79.604			Unknown - Present
Herniated nucleus pulposus, L3-4	ICD-9-CM: 722.10 ICD-10-CM: M51.26			7/15/2015 - Present
Herniated nucleus pulposus, L3-4 right	ICD-9-CM: 722.10 ICD-10-CM: M51.26			7/20/2015 - Present
Pain of back and right lower extremity	ICD-9-CM: 724.5, 729.5 ICD-10-CM: M54.9, M79.604			9/3/2015 - Present
Muscle weakness	ICD-9-CM: 728.87 ICD-10-CM: M62.81			9/3/2015 - Present
Difficulty walking	ICD-9-CM: 719.7 ICD-10-CM: R26.2			10/1/2015 - Present
Back stiffness	ICD-9-CM: 724.8 ICD-10-CM: M25.60			10/1/2015 - Present
S/P lumbar microdiscectomy	ICD-9-CM: V45.89 ICD-10-CM: Z98.89			10/1/2015 - Present
Lumbar radiculopathy, chronic	ICD-9-CM: 724.4 ICD-10-CM: M54.16			11/13/2015 - Present
Chronic low back pain	ICD-9-CM: 724.2, 338.29 ICD-10-CM: M54.5, G89.29			1/5/2016 - Present
Sacroiliac inflammation	ICD-9-CM: 720.2 ICD-10-CM: M46.1			1/5/2016 - Present

Allergies as of 1/5/2016

No Known Allergies

Reviewed On: 1/6/2016 By: Jyoti K Math, MD

Vital Signs

Most recent update: 1/5/2016 10:48 AM by
Jessica McDaniel, RMA

BP	Pulse	Ht	Wt	BMI
153/90 mmHg	83	1.727 m (5' 8")	74.844 kg (165 lb)	25.09 kg/m2

Medical as of 1/5/2016	Past Medical History	Date	Comments	Source
	Back pain			Provider

Generated on 6/28/2016 11:55 AM

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ORTHO/NEURO PATEWOOD C-100
200 Patwood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 01/05/16

Visit Summary (continued)

Low back pain		Provider
Leg pain, right		Provider
Lumbosacral disc disease		Provider
Pain of back and right lower extremity	9/3/2015	Provider
Muscle weakness	9/3/2015	Provider
Difficulty walking	10/1/2015	Provider
Back stiffness	10/1/2015	Provider
Right lumbar microdissection	10/1/2015	Provider

Surgical as of 1/5/2016	Past Surgical History	Laterality	Date	Comments
	MICRODISSECTION LUMBAR		07-30-2015	Dr. Timothy Mahenny

Family as of 1/5/2016	Problem	Relation	Name	Age of Onset	Comments	Source
	Diabetes	Mother				Provider
	Hypertension	Mother				Provider
	Diabetes	Father				Provider
	Hypertension	Father				Provider

Family Status as of 1/5/2016	Relation	Name	Status	Death Age	Comments	Source
	Mother		Alive			Provider
	Father		Alive			Provider
	Daughter				Healthy	Provider
	Son				x2, Healthy	Provider

Tobacco Use as of 1/5/2016	Smoking Status	Source	Types	Packs/day	Years Used	Comments	Smoking Start Date	Smoking Quit Date	Smokeless Tobacco Status	Smokeless Tobacco Quit Date
	Never Smoker	Provider		0-0	0-0				Never Used	

Alcohol Use as of 1/5/2016	Alcohol Use	Source	Drinks/Week	Alcohol/Wk	Comments
	No	Provider			

Drug Use as of 1/5/2016	Drug Use	Source	Types	Frequency	Comments
	No	Provider		0-0	

Sexual Activity as of 1/5/2016	Sexually Active	Source	Birth Control	Partners	Comments
	Yes	Provider	None	Female	

Social ADL as of 1/5/2016	ADL Question	Response	Comments	Source
	None			

Occupational as of 1/5/2016	**None**
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Socioeconomic as of 1/5/2016	Marital Status	Spouse Name	Num of Children	Years Education	Source
	Married				
	Preferred Language	Ethnicity	Race		
	Spanish	Hispanic or Latino	Hispanic		

Generated on 6/28/2016 11:55 AM

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Visit Summary (continued)

Medications

Medications the Patient Reported Taking

	Disp	Refills	Start	End
cyclobenzaprine (FLEXERIL) 10 mg tablet (Taking/Discontinued) Sig: Take 1 tablet (10 mg) by mouth at bedtime as needed for muscle spasms. Class: Print Route: Oral Reason for Discontinue: Reorder (won't display on AVS) Cosign for Ordering: Accepted by Jyoti K Math, MD on 11/13/2015 11:16 AM	28 tablet	0	11/13/2015	1/5/2016
cyclobenzaprine (FLEXERIL) 10 mg tablet (Taking/Discontinued) Sig: Take 1 tablet (10 mg) by mouth at bedtime as needed for muscle spasms. Route: Oral Cosign for Ordering: Accepted by Jyoti K Math, MD on 1/5/2016 11:59 AM	28 tablet	0	1/5/2016	2/16/2016
gabapentin (NEURONTIN) 300 mg capsule (Taking/Discontinued) Sig: Take 300 mg 3 (three) times a day. Class: Historical Med Route: Oral Reason for Discontinue: Reorder (won't display on AVS)				1/5/2016
gabapentin (NEURONTIN) 300 mg capsule (Taking/Discontinued) Sig: Take one tab at bedtime for 3 days, then one tab every 12 hours for 3 days, then one tab every 8 hours for remainder Cosign for Ordering: Accepted by Jyoti K Math, MD on 1/5/2016 11:59 AM	84 capsule	0	1/5/2016	2/16/2016
meloxicam (MOBIC) 7.5 mg tablet (Taking/Discontinued) Sig: Take 1 tablet (7.5 mg) by mouth daily. Class: Print Route: Oral Cosign for Ordering: Accepted by Jyoti K Math, MD on 11/13/2015 11:16 AM	28 tablet	0	11/13/2015	1/5/2016
omeprazole (PRILOSEC) 20 MG capsule (Taking/Discontinued) Sig: Take 1 capsule (20 mg) by mouth daily. Class: Print Route: Oral Cosign for Ordering: Accepted by Jyoti K Math, MD on 11/13/2015 11:16 AM	28 capsule	0	11/13/2015	1/5/2016
tramadol (ULTRAM) 50 mg tablet (Taking/Discontinued) Sig: Take 1 tablet (50 mg) by mouth every 4 (four) hours as needed for moderate pain. Class: Print Route: Oral Reason for Discontinue: Reorder (won't display on AVS) Cosign for Ordering: Accepted by Jyoti K Math, MD on 11/13/2015 11:16 AM	90 tablet	0	11/13/2015	1/5/2016
tramadol (ULTRAM) 50 mg tablet (Taking/Discontinued) Sig: Take 1 tablet (50 mg) by mouth every 4 (four) hours as needed for moderate pain. Class: Print Route: Oral Reason for Discontinue: Reorder (won't display on AVS)	90 tablet	0	1/5/2016	2/16/2016

Medications (continued)

Medications the Patient Reported Taking (continued)

	Disp	Refills	Start	End
--	------	---------	-------	-----

Cosign for Ordering: Accepted by Jyoti K Math, MD on 1/5/2016 11:59 AM

Medications at Start of Encounter

	Disp	Refills	Start	End
cyclobenzaprine (FLEXERIL) 10 mg tablet	28 tablet	0	11/13/2015	1/5/2016

(Taking/Discontinued)

Sig - Route: Take 1 tablet (10 mg) by mouth at bedtime as needed for muscle spasms. - Oral

Class: Print

Reason for Discontinue: Reorder (won't display on AVS)

Cosign for Ordering: Accepted by Jyoti K Math, MD on 11/13/2015 11:16 AM

gabapentin (NEURONTIN) 300 mg capsule

1/5/2016

(Taking/Discontinued)

Sig - Route: Take 300 mg 3 (three) times a day. - Oral

Class: Historical Med

Reason for Discontinue: Reorder (won't display on AVS)

meloxicam (MOBIC) 7.5 mg tablet

28 tablet

0

11/13/2015

1/5/2016

(Taking/Discontinued)

Sig - Route: Take 1 tablet (7.5 mg) by mouth daily. - Oral

Class: Print

Cosign for Ordering: Accepted by Jyoti K Math, MD on 11/13/2015 11:16 AM

omeprazole (PRILOSEC) 20 MG capsule

28 capsule

0

11/13/2015

1/5/2016

(Taking/Discontinued)

Sig - Route: Take 1 capsule (20 mg) by mouth daily. - Oral

Class: Print

Cosign for Ordering: Accepted by Jyoti K Math, MD on 11/13/2015 11:16 AM

tramadol (ULTRAM) 50 mg tablet

90 tablet

0

11/13/2015

1/5/2016

(Taking/Discontinued)

Sig - Route: Take 1 tablet (50 mg) by mouth every 4 (four) hours as needed for moderate pain. - Oral

Class: Print

Reason for Discontinue: Reorder (won't display on AVS)

Cosign for Ordering: Accepted by Jyoti K Math, MD on 11/13/2015 11:16 AM

Discontinued Medications

	Reason for Discontinue
--	------------------------

meloxicam (MOBIC) 7.5 mg tablet

omeprazole (PRILOSEC) 20 MG capsule

tramadol (ULTRAM) 50 mg tablet

Reorder (won't display on AVS)

cyclobenzaprine (FLEXERIL) 10 mg tablet

Reorder (won't display on AVS)

gabapentin (NEURONTIN) 300 mg capsule

Reorder (won't display on AVS)

Ordered Medications

	Disp	Refills	Start	End
tramadol (ULTRAM) 50 mg tablet (Discontinued)	90 tablet	0	1/5/2016	2/16/2016

Sig - Route: Take 1 tablet (50 mg) by mouth every 4 (four) hours as needed for moderate pain. - Oral

Class: Print

Reason for Discontinue: Reorder (won't display on AVS)

Cosign for Ordering: Accepted by Jyoti K Math, MD on 1/5/2016 11:59 AM

cyclobenzaprine (FLEXERIL) 10 mg tablet

28 tablet

0

1/5/2016

2/16/2016

(Discontinued)

Sig - Route: Take 1 tablet (10 mg) by mouth at bedtime as needed for muscle spasms. - Oral

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Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 01/05/16

Medications (continued)

Ordered Medications (continued)

	Disp	Refills	Start	End
Cosign for Ordering: Accepted by Jyoti K Math, MD on 1/5/2016 11:59 AM				
gabapentin (NEURONTIN) 300 mg capsule	84 capsule	0	1/5/2016	2/16/2016

(Discontinued)

Sig: Take one tab at bedtime for 3 days, then one tab every 12 hours for 3 days, then one tab every 8 hours for remainder

Cosign for Ordering: Accepted by Jyoti K Math, MD on 1/5/2016 11:59 AM

Telephone Encounter

Call Information

	Provider	Department	Center
1/5/2016 10:30 AM	Jyoti K Math, MD	Physiatry-Patewood	PTWD CENTERS

Reason for Call

Right Hip - pain

Right Leg - pain

Call Documentation

No notes of this type exist for this encounter.

Care Advice Given

No Care Advice given for this encounter.

Orders

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 01/05/16

All Orders and Results Except Lab and Imaging (01/05/16 - 01/05/16)

Ambulatory Referral to Internal Medicine

Electronically signed by: Jacqueline Denise Smith on 01/05/16 1120 Status: Active
Ordering user: Jacqueline Denise Smith 01/05/16 1120 Ordering provider: Jyoti K Math, MD
Authorized by: Jyoti K Math, MD
Co-signing events:
Electronically cosigned by Jyoti K Math, MD 01/05/16 1159 for Ordering
Frequency: 01/05/16 - Released by: Jacqueline Denise Smith 01/05/16 1120

Result Summary

All Lab and Imaging Orders and Results

No orders and results found

Progress Notes

Jyoti K Math, MD at 1/5/2016 10:38 AM

Author Type: Physician Status: Signed

Subjective:

Patient ID: Samuel De Jesu Paulino-Bautista is a 35 y.o. male

Chief Complaint

Patient presents with:

- Right Hip - pain
- Right Leg - pain

HPI:

HPI Comments: Old history

1 Patient is seen at the request of Dr. McHenry. Back pain with radiculopathy Status post right L3-L4 microdiscectomy on July 30, 2015. Continues to have persistent chronic right leg radicular pain status post MRI of lumbar spine on 10/7/2015 shows minimal epidural fibrosis. Otherwise unremarkable. Not a surgical candidate as per Dr. McHenry has failed PT and anti-inflammatory medications

The patient was seen in the presence of Spanish interpreter

Patient returns today for follow-up. He reports that the anti-inflammatory medication helped him for short period of time. He continues to have a significant activity limiting pain.

Sometimes the pain is so bad that he starts having palpitation. He had to go to emergency room because of her high blood pressure. They did all the workup which was negative. He does not have a primary care physician.

Pain Assessment

Pain Assessment: 0-10

Pain Score: 8

Pain Location: Hip

Pain Orientation: Right

Pain Descriptors: Sharp, Stabbing

Pain Frequency: Constant/continuous

Pain Onset: Ongoing

Clinical Progression: Gradually worsening

Aggravating Factors: Activity, Walking, Bending, Stretching, Work, Standing, Stairs

Pain Limitations: General Activity, Enjoyment of Life

Generated on 6/28/2016 11:55 AM

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Progress Notes (continued)

Jyoti K Math, MD at 1/5/2016 10:38 AM (continued)

Result of Injury: No

Work-Related Injury: No

Patient's Stated Pain Goal: No pain

Pain Intervention(s): Medication (See MAR), Rest

Current Treatment Includes: patient did not bring medication is currently taking tramadol

ROS:

Review of Systems

No progressive weakness, change in bowel or bladder habits, fever or unexplained weight loss. Other review of systems are negative.

Objective:

BP 153/90 mmHg | Pulse 83 | Ht 1.727 m (5' 8") | Wt 74.844 kg (165 lb) | BMI 25.09 kg/m2

Physical Exam

PHYSICAL EXAM

Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished. No distress.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Pupils are equal, round, and reactive to light.

Cardiovascular:

No peripheral edema or varicose veins

Pulmonary/Chest: No respiratory distress.

Abdominal: Soft.

Musculoskeletal: He exhibits tenderness. He exhibits no edema.

Neurological: He is alert and oriented to person, place, and time.

Skin: Skin is warm and dry. No rash noted. No erythema.

Psychiatric: He has normal mood and affect. His behavior is normal.

Nursing note and vitals reviewed.

Ortho Exam

The patient is in moderate discomfort. Able to transfer independently from chair to bed. Strength in bilateral lower extremities 5 out of 5 except 4+ out of 5 on the right side because of the pain. Straight leg test is negative. Lumbar range of motion is restricted on palpation has a tenderness over lumbar paraspinals and right posterior superior iliac spine as well as right facet.

ASSESSMENT/PLAN:

1. Sacroiliac inflammation refill tramadol may benefit with the SI injection in future if doesn't improve with the Flexeril will consider SI injection under fluoroscopic guidance.
2. Chronic low back pain started him on Flexeril. Flexeril. Side effects discussed with him, especially drowsiness.
3. Herniated nucleus pulposus, L3-4 right I will start him on Neurontin. Neurontin. Side effects discussed with him in depth, especially drowsiness fall precaution. Driving precaution.
4. Lumbar radiculopathy, chronic. Patient also has a mildly elevated, blood pressure we will refer him to internal medicine clinic
5. The patient was advised to continue all other medications as prescribed by other treating physicians/providers.

Please note that some or all of this record was generated using voice recognition software. If there are any questions about the content of this document, please contact the author as some errors in transcription may have occurred JIM/mbm

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29616-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 01/05/16

Progress Notes (continued)

Jyoti K Math, MD at 1/5/2016 10:33 AM (continued)

Electronically signed by Maria B Maxwell on 1/5/2016 1:13 PM

H&P Notes

No notes of this type exist for this encounter.

Follow-up and Disposition History

User	Date & Time
MATH, JYOTI	1/5/2016 11:16 AM

Disposition:

Return in about 4 weeks (around 2/2/2016) for Recheck.

Follow-up:

N/A

Instructions:

N/A

Check-out Note:

N/A

Send Reminder:

N/A

Encounter-Level Documents:

There are no encounter-level documents.

Order-Level Documents:

There are no order-level documents.

Visit Summary

Reason for Visit

Lower Back - follow up of
multiple medical problems

Diagnoses

Lumbar radiculopathy, chronic - Primary
Herniated nucleus pulposus, L3-4 right
Sacroiliac Inflammation

Problem List as of 2/16/2016

Date Reviewed: 2/16/2016

	Codes	Priority	Class	Noted - Resolved
Leg pain, right	ICD-9-CM: 729.5 ICD-10-CM: M79.604			Unknown - Present
Herniated nucleus pulposus, L3-4	ICD-9-CM: 722.10 ICD-10-CM: M51.26			7/15/2015 - Present
Herniated nucleus pulposus, L3-4 right	ICD-9-CM: 722.10 ICD-10-CM: M51.26			7/20/2015 - Present
Pain of back and right lower extremity	ICD-9-CM: 724.5, 729.5 ICD-10-CM: M54.9, M79.604			9/3/2015 - Present
Muscle weakness	ICD-9-CM: 728.87 ICD-10-CM: M62.81			9/3/2015 - Present
Difficulty walking	ICD-9-CM: 719.7 ICD-10-CM: R26.2			10/1/2015 - Present
Back stiffness	ICD-9-CM: 724.8 ICD-10-CM: M25.60			10/1/2015 - Present
S/P lumbar microdiscectomy	ICD-9-CM: V45.89 ICD-10-CM: Z98.89			10/1/2015 - Present
Lumbar radiculopathy, chronic	ICD-9-CM: 724.4 ICD-10-CM: M54.16			11/13/2015 - Present
Chronic low back pain	ICD-9-CM: 724.2, 338.29 ICD-10-CM: M54.5, G89.29			1/5/2016 - Present
Sacroiliac Inflammation	ICD-9-CM: 720.2 ICD-10-CM: M46.1			1/5/2016 - Present

Allergies as of 2/16/2016

No Known Allergies

Reviewed On: 2/16/2016 By: Jyoti K Math, MD

Vital Signs

Most recent update: 2/16/2016 11:56 AM by
Jacqueline Denise Smith

BP	HR	RR	Temp	Wt
(1)148/100 mmHg	84			74.844 kg (165 lb)

Vitals History

BP	HR	RR	Temp	Wt
----	----	----	------	----

Medical as of 2/16/2016	Past Medical History	Date	Comments	Source Provider
	Back pain			

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ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 02/16/16

Visit Summary (continued)

Low back pain		Provider
Leg pain, right		Provider
Lumbosacral disc disease		Provider
Pain of back and right lower extremity	8/3/2015	Provider
Muscle weakness	9/3/2015	Provider
Difficulty walking	10/1/2015	Provider
Back stiffness	10/1/2015	Provider
RP Lumbal Microdissection	10/1/2015	Provider

Surgical as of 2/16/2016	Past Surgical History	Laterality	Date	Comments
	MICRODISSECTOMY LUMBAR		07-30-2015	Dr. Timothy Monerity

Family as of 2/16/2016	Problem	Relation	Name	Age of Onset	Comments	Source
	Diabetes	Mother				Provider
	Hypertension	Mother				Provider
	Diabetes	Father				Provider
	Hypertension	Father				Provider

Family Status as of 2/16/2016	Relation	Name	Status	Death Age	Comments	Source
	Mother		Alive			Provider
	Father		Alive			Provider
	Daughter				Healthy	Provider
	Son				x2 Healthy	Provider

Tobacco Use as of 2/16/2016	Smoking Status	Source	Types	Packs/day	Years Used	Comments	Smoking Start Date	Smoking Quit Date	Smokeless s Tobacco	Smokeless s Tobacco Status	Smokeless s Tobacco Quit Date
	Never Smoker	Provider		0.0	0.0					Never Used	

Alcohol Use as of 2/16/2016	Alcohol Use	Source	Drinks/Week	Alcohol/Wk	Comments
	No	Provider			

Drug Use as of 2/16/2016	Drug Use	Source	Types	Frequency	Comments
	No	Provider		0.00	

Sexual Activity as of 2/16/2016	Sexually Active	Source	Birth Control	Partners	Comments
	Yes	Provider	None	Female	

Social ADL as of 2/16/2016	ADL Question	Response	Comments	Source
	None			

Occupational as of 2/16/2016	**None**
------------------------------	----------

Socioeconomic as of 2/16/2016	Marital Status	Spouse Name	Num of Children	Years Education	Source
	Married				
	Preferred Language	Ethnicity	Race		
	Spanish	Hispanic or Latino	Hispanic		

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Visit Summary (continued)

Medications

Medications at Start of Encounter

	Disp.	Refills	Start	End
cyclobenzaprine (FLEXERIL) 10 mg tablet (Discontinued)	28 tablet	0	1/5/2016	2/16/2016
Sig - Route: Take 1 tablet (10 mg) by mouth at bedtime as needed for muscle spasms. - Oral				
Cosign for Ordering: Accepted by Jyoti K Math, MD on 1/5/2016 11:59 AM				
gabapentin (NEURONTIN) 300 mg capsule (Discontinued)	84 capsule	0	1/5/2016	2/16/2016
Sig: Take one tab at bedtime for 3 days, then one tab every 12 hours for 3 days, then one tab every 8 hours for remainder				
Cosign for Ordering: Accepted by Jyoti K Math, MD on 1/5/2016 11:59 AM				
tramadol (ULTRAM) 50 mg tablet (Discontinued)	90 tablet	0	1/5/2016	2/16/2016
Sig - Route: Take 1 tablet (50 mg) by mouth every 4 (four) hours as needed for moderate pain. - Oral				
Class: Print				
Reason for Discontinue: Reorder (won't display on AVS)				
Cosign for Ordering: Accepted by Jyoti K Math, MD on 1/5/2016 11:59 AM				

Discontinued Medications

	Reason for Discontinue
tramadol (ULTRAM) 50 mg tablet	Reorder (won't display on AVS)
cyclobenzaprine (FLEXERIL) 10 mg tablet	
gabapentin (NEURONTIN) 300 mg capsule	

Ordered Medications

	Disp.	Refills	Start	End
tramadol (ULTRAM) 50 mg tablet (Discontinued)	112 tablet	0	2/17/2016	3/22/2016
Sig - Route: Take 1 tablet (50 mg) by mouth every 6 (six) hours. - Oral				
Class: Print				
Reason for Discontinue: Reorder (won't display on AVS)				
Cosign for Ordering: Accepted by Jyoti K Math, MD on 2/16/2016 5:38 PM				
cyclobenzaprine (FLEXERIL) 5 MG tablet (Discontinued)	28 tablet	0	2/16/2016	3/22/2016
Sig - Route: Take 1 tablet (5 mg) by mouth daily. - Oral				
Reason for Discontinue: Reorder (won't display on AVS)				
Cosign for Ordering: Accepted by Jyoti K Math, MD on 2/16/2016 5:38 PM				
gabapentin (NEURONTIN) 400 mg capsule (Discontinued)	84 capsule	0	2/16/2016	3/22/2016
Sig - Route: Take 1 capsule (400 mg) 3 (three) times a day. - Oral				
Reason for Discontinue: Reorder (won't display on AVS)				
Cosign for Ordering: Accepted by Jyoti K Math, MD on 2/16/2016 5:38 PM				

Telephone Encounter

Call Information

	Provider	Department	Center
2/16/2016 11:45 AM	Jyoti K Math, MD	Physiatry-Patwood	PTWD CENTERS

Reason for Call

Lower Back - follow up of

Generated on 6/28/2016 11:55 AM

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 02/16/16

Telephone Encounter (continued)

Reason for Call (continued)

multiple medical problems

Call Documentation

No notes of this type exist for this encounter.

Care Advice Given

No Care Advice given for this encounter.

Orders

All Orders and Results Except Lab and Imaging

No orders and results found

Result Summary

All Lab and Imaging Orders and Results

No orders and results found

Progress Notes

Jyoti K Math, MD at 2/16/2016 11:51 AM

Author Type: Physician

Status: Signed

Subjective:

Patient ID: Samuel De Jesu Paulino-Bautista is a 35 y.o. male

Chief Complaint

Patient presents with:

- Lower Back - follow up of multiple medical problems

HPI Comments:

Old history:

1. Patient is seen at the request of Dr. McHenry. Back pain with radiculopathy status post right L3-L4 microdiscectomy on July 30, 2015. Continues to have persistent chronic right leg radicular pain. Status post MRI of lumbar spine on 10/7/2015 shows minimal epidural fibrosis. Otherwise unremarkable. Not a surgical candidate as per Dr. McHenry. Has failed PT and anti-inflammatory medications.

HPI:

The patient was seen in the presence of phone Spanish interpreter. Patient returns today for follow-up. He continues to have right leg pain. He reports that the tramadol helps him the most. The combination of Neurontin and Flexeril makes him drowsy, but Flexeril helps. Otherwise, there are no other side effects from Neurontin or tramadol.

Pain Assessment

Pain Assessment: 0-10

Pain Score: 7

Pain Location: Back (goes down right leg)

Pain Orientation: Lower

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Progress Notes (continued)

Jyoti K Math, MD at 2/16/2016 11:51 AM (continued)

Pain Descriptors: Throbbing

Pain Frequency: Constant/continuous

Pain Onset: Ongoing

Clinical Progression: Not changed

Aggravating Factors: Activity, Standing, Walking (sitting for long period of time)

Patient's Stated Pain Goal: No pain

Pain Intervention(s): Medication (See MAR)

Current Treatment Includes: PATIENT TOOK TRAMADOL THIS MORNING. PATIENT HAS # 9 FILLED ON 10-29-16

ROS:

Review of Systems

No progressive weakness, change in bowel or bladder habits, fever or unexplained weight loss. Other review of systems are negative.

Objective:

Wt 74.844 kg (165 lb)

Physical Exam

PHYSICAL EXAM

Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished. He is in no distress.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Pupils are equal, round, and reactive to light.

Cardiovascular:

No peripheral edema or varicose veins

Pulmonary/Chest: No respiratory distress.

Abdominal: Soft.

Musculoskeletal: He exhibits tenderness. He exhibits no edema.

Neurological: He is alert and oriented to person, place, and time.

Skin: Skin is warm and dry. No rash noted. No erythema.

Psychiatric: He has normal mood and affect. His behavior is normal.

Nursing note and vitals reviewed.

Ortho Exam

He walks with a cane with antalgic gait. Strength in lower extremity is stable.

Lab Results

Component	Value	Date
MORPHINE	Neg	11/16/2015
OXYMORPHONE	Neg	11/16/2015
HYDROMORPH	Neg	11/16/2015
CODEINE	Neg	11/16/2015
OXYCODONE	Neg	11/16/2015
NOROXYCO	Neg	11/16/2015
HYDROCO	Neg	11/16/2015
NORHYDROCO	Neg	11/16/2015
CANNABUR	Neg	11/16/2015
COCAINE	Neg	11/16/2015
AMINES	Neg	11/16/2015
BENZOURQL	Neg	11/16/2015

Progress Notes (continued)

Jyoti K Math, MD at 2/16/2016 11:51 AM (continued)

BARBITURATES	Neg	11/16/2015
METHSCRNUR	Neg	11/16/2015
TRICYCLIC	Neg	11/16/2015
FENTANYLUR	Neg	11/16/2015
TRAMADOLUR	5800	11/16/2015

Reference range: <100
Unit: ng/mL

TRAMADOLUR 11/16/2015

(NOTE)

Test Performed by Quest, Chantilly,
Quest Diagnostics Nichols Institute,
14225 Newbrook Drive, Chantilly, VA 20151
Patrick W Mason, M.D., Ph.D., Director of Laboratories
(703) 802-6900, CLIA 49D0221801

BUPRENORPUR	NEGATIVE	11/16/2015
	Reference range: <2	
	Unit: ng/mL	

NORBUPRENUR	NEGATIVE	11/16/2015
	Reference range: <2	
	Unit: ng/mL	

NORBUPRENUR 11/16/2015

(NOTE)

Test Performed by Quest, Chantilly,
Quest Diagnostics Nichols Institute,
14225 Newbrook Drive, Chantilly, VA 20151
Patrick W Mason, M.D., Ph.D., Director of Laboratories
(703) 802-6900, CLIA 49D0221801

ASSESSMENT/PLAN:

1. Lumbar radiculopathy, chronic: I will increase tramadol to maximum four a day and increase Neurontin to 400 mg three times a day. We will reduce Flexeril to 5 mg at night. I reviewed his last urine drug screen, which is appropriate. His DHEC report reviewed. I do not see prescription filled by me, but it could not be updated yet.
2. Herniated nucleus pulposus, L3-4 right: If he fails conservative treatment, we can repeat epidural steroid injection. Procedure risks and benefits discussed with patient.
3. Sacroiliac Inflammation.
4. The patient was advised to continue all other medications as prescribed by other treating physicians/providers.

Please note that some or all of this record was generated using voice recognition software. If there

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 02/16/16

Progress Notes (continued)

Jyoti K Math, MD at 2/16/2016 11:51 AM (continued)

are any questions about the content of this document, please contact the author as some errors in transcription may have occurred JM/jp

No orders of the defined types were placed in this encounter.

Electronically signed by Joanne Pirone on 2/16/2016 5:36 PM

H&P Notes

No notes of this type exist for this encounter.

Follow-up and Disposition History

User	Date & Time
MATH, JYOTI	2/16/2016 12:05 PM

Disposition:

Return in about 4 weeks (around 3/15/2016) for Recheck

Follow-up:

N/A

Instructions:

N/A

Check-out Note:

N/A

Send Reminder:

N/A

Encounter-Level Documents - 02/16/2016:

Document on 2/16/2016 12:09 PM by Marlene Vanhooose : AVS - Outpatient (below)

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 02/16/16



Samuel De Jesus Paulino-Bautista

Date: 2/10/2016
Physician: Jyoti K Math, MD
Department: Psychiatry-Patwood
Visit Type: [REDACTED]
Visit Address: 200 Patewood Dr.
Suite C100 Greenville
SC 29615-6322

Demographic Information

First Name: [REDACTED] Sex: Male Age: Hispanic Ethnicity: Hispanic or Latino State and Language: Spanish Preferred Language: Spanish

Reason for Visit:
Lower Back - follow up of
multiple medical problems

Follow-up Instructions

Return in about 4 weeks (around 3/15/2016) for Recheck.

Future Appointments

Tuesday March 15, 2016 1:00 PM Appointment with Jyoti K Math at Psychiatry-Patwood (864-434-7422)
Address: 200 Patewood Dr, Suite C100
Tuesday May 03, 2016 9:30 AM Appointment with Caryl Allyn Lapeyrolerie at Cypress Internal Medicine-Patwood (864-434-2228)
Bring all previous medical records and files, along with current medications
two insurance cards
Address: 200 Patewood Dr Suite C100

Medications

These changes are accurate as of 2/16/16 12:09 PM. If you have any questions, ask your nurse or doctor.

These Medications Have Changed

gabapentin 300 mg tablet
Risks: 0
Commonly known as: gabapentin
What changed:
- medication strength
- how much to take
- when to take this
- reasons to take this
Changed by: Jyoti K Math, MD

Take 1 tablet (300 mg) by mouth daily.

gabapentin 400 mg capsule
Risks: 0
Commonly known as: gabapentin
What changed:
- medication strength
- how much to take
- how to take this
- when to take this
- additional instructions
Changed by: Jyoti K Math, MD

Take 1 capsule (400 mg) 3 (three) times a day.

Paulino-Bautista, Samuel De Jesus (MRN: [REDACTED]) DOB: [REDACTED]

Page 1 of 3

Document on 2/16/2016 12:09 PM by Marlene Vanhooze : AVS - Outpatient (below)

ORTHONEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 02/16/16

Medications (continued)

Tramadol 50 mg tablet (continued)

Tramadol 50 mg tablet
Refills: 0
Comments: Rx on 02/16/16
Starting on: 2/17/2016
When started:
- when to take this
- reasons to take this
- changed by J. [REDACTED] M.D., M.D.

Take 1 tablet (50 mg) by mouth every 6 (six) hours.

Where to Get Your Medications

You need to pick up these medications. We sent them to a specific pharmacy, so go there to get them.

WAL-MART PHARMACY 1246 • 3027 W. Wade Hampton Blvd. Phone: 854-283-0610
TAYLORS, SC - 3027 WADE HAMPTON BLVD
BLVD
- hydrocodone 5 mg tablet
- gabapentin 400 mg capsule

Information on where to get these meds is not yet available. Ask your nurse or doctor.
- tramadol 50 mg tablet

Treatment:

Other Details from this Visit

Reason for Visit

Lower Back - follow up of
multiple medical problems

Current Problems List as of 2/16/2016

Low back pain
Hemiated nucleus pulposus, L3-4
Hemiated nucleus pulposus, L2-3 right
Pain of back and distal lower extremities
Muscle weakness
Difficulty walking
Back stiffness
B/P lumbar microdiscectomy
Lumbar radiculopathy, chronic
Chronic low back pain
Sacroiliac inflammation

Allergies

No Known Allergies

Vital Signs

Height/Weight: 5'4" / 148/100 lb
BP: 84 / 74.8/44 kg (165 lb) Never Smoker

Get MyChart

MyChart allows you to send messages to your doctor, view your test results, renew your prescriptions, schedule appointments, and more. To sign up, go to mychart.ghs.org and click on the Sign Up Now link in

Paulino-Bautista, Samuel De Jesu (M.D.) DOB: [REDACTED]

Page 2 of 3

Document on 2/16/2016 12:09 PM by Marlene Vanhooze : AVS - Outpatient (below)

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 02/16/16

OHSC MyChart (continued)

Are New User? box. Enter your MyChart Activation Code exactly as it appears below along with the last four digits of your Social Security Number and your Date of Birth to complete the sign-up process. If you do not sign up before the expiration date, you must request a new code.

MyChart Activation Code: B27NN-R9T47-MF60G
Expires: 3/1/2016 11:32 AM

If you have questions, you can e-mail MyChartPortal@ohs.org or call (844) 432-6893 to talk to our MyChart staff. Remember, MyChart is NOT to be used for urgent needs. For medical emergencies, dial 911.

Paulino-Bautista, Samuel De Jesu (MRN: [REDACTED]) DOB: [REDACTED]

Page 3 of 3

Order-Level Documents:

There are no order-level documents.

Visit Summary

Reason for Visit

Lower Back - follow-up

Diagnoses

Pain of back and right lower extremity - Primary

Herniated nucleus pulposus, L3-4 right

Lumbar radiculopathy, chronic

Problem List as of 3/22/2016

Date Reviewed: 3/22/2016

	Codes	Priority	Class	Noted - Resolved
Leg pain, right	ICD-9-CM: 729.5 ICD-10-CM: M79.604			Unknown - Present
Herniated nucleus pulposus, L3-4	ICD-9-CM: 722.10 ICD-10-CM: M51.26			7/15/2015 - Present
Herniated nucleus pulposus, L3-4 right	ICD-9-CM: 722.10 ICD-10-CM: M51.26			7/20/2015 - Present
Pain of back and right lower extremity	ICD-9-CM: 724.5, 729.5 ICD-10-CM: M54.9, M79.604			9/3/2015 - Present
Muscle weakness	ICD-9-CM: 728.87 ICD-10-CM: M62.81			9/3/2015 - Present
Difficulty walking	ICD-9-CM: 719.7 ICD-10-CM: R26.2			10/1/2015 - Present
Back stiffness	ICD-9-CM: 724.8 ICD-10-CM: M25.60			10/1/2015 - Present
S/P lumbar microdiscectomy	ICD-9-CM: V45.89 ICD-10-CM: Z98.89			10/1/2015 - Present
Lumbar radiculopathy, chronic	ICD-9-CM: 724.4 ICD-10-CM: M54.16			11/13/2015 - Present
Chronic low back pain	ICD-9-CM: 724.2, 338.29 ICD-10-CM: M54.5, G89.29			1/5/2016 - Present
Sacroiliac inflammation	ICD-9-CM: 720.2 ICD-10-CM: M46.1			1/5/2016 - Present

Allergies as of 3/22/2016

No Known Allergies

Reviewed On: 3/22/2016 By: Jyoti K Math, MD

Vital Signs

Most recent update: 3/22/2016 10:54 AM by
Jacqueline Denise Smith

BP	Pulse	WT
(1)141/99 mmHg	82	73.483 kg (162 lb)

Medical

as of 3/22/2016

Past Medical History

Date	Comments	Source
Back pain		Provider
Low back pain		Provider
Leg pain, right		Provider

Generated on 6/28/2016 11:55 AM

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ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 03/22/16

Visit Summary (continued)

Lumbosacral disc disease			Provider
Pain of back and right lower extremity	9/3/2015		Provider
Muscle weakness	9/3/2015		Provider
Difficulty walking	10/1/2015		Provider
Back stiffness	10/1/2015		Provider
S/P lumbar microdiscectomy	10/1/2015		Provider

Surgical as of 3/22/2016

Past Surgical History	Laterality	Date	Comments
MICRODISCECTOMY LUMBAR		07/30/2015	Dr. Timothy Vicherry

Family as of 3/22/2016

Problem	Relation	Name	Age of Onset	Comments	Source
Diabetes	Mother				Provider
Hypertension	Mother				Provider
Diabetes	Father				Provider
Hypertension	Father				Provider

Family Status as of 3/22/2016

Relation	Name	Status	Death Age	Comments	Source
Mother		Alive			Provider
Father		Alive			Provider
Daughter				Healthy	Provider
Son				x2, Healthy	Provider

Tobacco Use

Smoking Status	Source	Types	Packs/day	Years Used	Comments	Smoking Start Date	Smoking Quit Date	Smokeless Tobacco Status	Smokeless Tobacco Quit Date
Never Smoker	Provider		0.0	0.0				Never Used	

Alcohol Use as of 3/22/2016

Alcohol Use	Source	Drinks/Week	Alcohol/Wk	Comments
No	Provider			

Drug Use as of 3/22/2016

Drug Use	Source	Types	Frequency	Comments
No	Provider		0.00	

Sexual Activity as of 3/22/2016

Sexually Active	Source	Birth Control	Partners	Comments
Yes	Provider	None	Female	

Social ADL

ADL Question	Response	Comments	Source
None			

Occupational as of 3/22/2016

None			
----------	--	--	--

Socioeconomic as of 3/22/2016

Marital Status	Spouse Name	Num of Children	Years Education	Source
Married				
Preferred Language	Ethnicity	Race		
Spanish	Hispanic or Latino	Hispanic		

Medications

Generated on 6/28/2016 11:55 AM

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ORTHO/NEURO/PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 03/22/16

Medications (continued)

Medications at Start of Encounter

	Disp	Refills	Start	End
cyclobenzaprine (FLEXERIL) 5 MG tablet (Discontinued)	28 tablet	0	2/16/2016	3/22/2016
Sig - Route: Take 1 tablet (5 mg) by mouth daily. - Oral Reason for Discontinue: Reorder (won't display on AVS) Cosign for Ordering: Accepted by Jyoti K Math, MD on 2/16/2016 5:38 PM				
gabapentin (NEURONTIN) 400 mg capsule (Discontinued)	84 capsule	0	2/16/2016	3/22/2016
Sig - Route: Take 1 capsule (400 mg) 3 (three) times a day. - Oral Reason for Discontinue: Reorder (won't display on AVS) Cosign for Ordering: Accepted by Jyoti K Math, MD on 2/16/2016 5:38 PM				
tramadol (ULTRAM) 50 mg tablet (Discontinued)	112 tablet	0	2/17/2016	3/22/2016
Sig - Route: Take 1 tablet (50 mg) by mouth every 6 (six) hours. - Oral Class: Print Reason for Discontinue: Reorder (won't display on AVS) Cosign for Ordering: Accepted by Jyoti K Math, MD on 2/16/2016 5:38 PM				

Discontinued Medications

	Reason for Discontinue
tramadol (ULTRAM) 50 mg tablet	Reorder (won't display on AVS)
gabapentin (NEURONTIN) 400 mg capsule	Reorder (won't display on AVS)
cyclobenzaprine (FLEXERIL) 5 MG tablet	Reorder (won't display on AVS)

Ordered Medications

	Disp	Refills	Start	End
tramadol (ULTRAM) 50 mg tablet (Discontinued)	112 tablet	0	3/22/2016	5/20/2016
Sig - Route: Take 1 tablet (50 mg) by mouth every 6 (six) hours. - Oral Class: Print Reason for Discontinue: Reorder (won't display on AVS) Cosign for Ordering: Accepted by Jyoti K Math, MD on 3/22/2016 4:46 PM				
gabapentin (NEURONTIN) 400 mg capsule	84 capsule	0	3/22/2016	
Sig - Route: Take 1 capsule (400 mg) 3 (three) times a day. - Oral Cosign for Ordering: Accepted by Jyoti K Math, MD on 3/22/2016 4:46 PM				
cyclobenzaprine (FLEXERIL) 5 MG tablet	28 tablet	0	3/22/2016	
Sig - Route: Take 1 tablet (5 mg) by mouth daily. - Oral Cosign for Ordering: Accepted by Jyoti K Math, MD on 3/22/2016 4:46 PM				

Telephone Encounter

Call Information

	Provider	Department	Center
3/22/2016 10:30 AM	Jyoti K Math, MD	Physiatry-Patewood	PTWD CENTERS

Reason for Call

Lower Back - follow-up

Call Documentation

No notes of this type exist for this encounter.

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 03/22/16

Telephone Encounter (continued)

Care Advice Given

No Care Advice given for this encounter.

Orders

All Orders and Results Except Lab and Imaging

No orders and results found

Result Summary

All Lab and Imaging Orders and Results (03/22/16 - 03/22/16)

Lumbar Transforaminal Epidural

Electronically signed by: Jyoti K Math, MD on 03/22/16 1117

Status: Active

Ordering user: Jyoti K Math, MD 03/22/16 1117

Authorized by: Jyoti K Math, MD

Frequency: 03/22/16 -

Diagnoses:

Pain of back and right lower extremity [M54.9, M79.604]

Herniated nucleus pulposus, L3-4 right [M51.26]

Lumbar radiculopathy, chronic [M54.16]

Questions:

Laterality: Right

Placement L4-5

Comments:

Follow-up with Dr. math

Progress Notes

Jyoti K Math, MD at 3/22/2016 10:53 AM

Author Type: Physician

Status: Signed

Subjective:

Patient ID: Samuel De Jesu Paulino-Bautista is a 35 y.o. male

No chief complaint on file.

HPI:

HPI Comments: Old history:

1. Patient is seen at the request of Dr. McHenry. Back pain with radiculopathy status post right L3-L4 microdiscectomy on July 30, 2015. Continues to have persistent chronic right leg radicular pain. Status post MRI of lumbar spine on 10/7/2015 shows minimal epidural fibrosis. Otherwise unremarkable. Not a surgical candidate as per Dr. McHenry. Has failed PT and anti-inflammatory medications.

The patient was seen in the presence of medical student and Spanish interpreter on the phone.

Patient returns today for follow-up. He reports that he continues to have a persistent right leg radicular pain, mainly in L4-L5 distribution. He feels that the medications are not helping adequately. He is willing to try injection. He also gets occasional spasms on the left thigh.

Pain Assessment

Pain Assessment: 0-10

Pain Score: 7

Pain Location: Back

Pain Orientation: Lower (goes down right leg)

Pain Descriptors: Sharp

Pain Frequency: Constant/continuous

Pain Onset: Ongoing

Clinical Progression: Not changed

Aggravating Factors: Activity, Walking (sitting)

Result of Injury: Yes

Work-Related Injury: Yes

Patient's Stated Pain Goal: No pain

Pain Intervention(s): Medication (See MAR)

Current Treatment Includes: PATIENT TOOK TRAMADOL THIS MORNING. PATIENT HAS # 11 TRAMADOL

Generated on 6/28/2016 11:55 AM

Page 43

Progress Notes (continued)

Jyoti K Math, MD at 3/22/2016 10:53 AM (continued)

FILLED ON 2-16-16

ROS:

Review of Systems

No progressive weakness, change in bowel or bladder habits, fever or unexplained weight loss. Other review of systems are negative.

Objective:

BP 141/99 mmHg | Pulse 82 | Wt 73.483 kg (162 lb)

Physical Exam

PHYSICAL EXAM

Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished. No distress.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Pupils are equal, round, and reactive to light.

Cardiovascular:

No peripheral edema or varicose veins

Pulmonary/Chest: No respiratory distress.

Abdominal: Soft.

Musculoskeletal: He exhibits tenderness. He exhibits no edema.

Neurological: He is alert and oriented to person, place, and time.

Skin: Skin is warm and dry. No rash noted. No erythema.

Psychiatric: He has normal mood and affect. His behavior is normal.

Nursing note and vitals reviewed.

Ortho Exam

He walks with a normal gait. Strength in lower extremities normal. Lumbar range of motion is painful.

Lab Results

Component	Value	Date
MORPHINE	Neg	11/16/2015
OXYMORPHONE	Neg	11/16/2015
HYDROMORPH	Neg	11/16/2015
CODEINE	Neg	11/16/2015
OXYCODONE	Neg	11/16/2015
NOROXYCO	Neg	11/16/2015
HYDROCO	Neg	11/16/2015
NORHYDROCO	Neg	11/16/2015
CANNABUR	Neg	11/16/2015
COCAINE	Neg	11/16/2015
AMINES	Neg	11/16/2015
BENZOURQL	Neg	11/16/2015
BARBITURATES	Neg	11/16/2015
METHSCRNUR	Neg	11/16/2015
TRICYCLIC	Neg	11/16/2015
FENTANYLUR	Neg	11/16/2015
TRAMADOLUR	5800	11/16/2015

Reference range: <100

Unit: ng/mL

Progress Notes (continued)

Jyoti K Math, MD at 3/22/2016 10:53 AM (continued)

TRAMADOLUR

11/16/2015

(NOTE)

Test Performed by Quest, Chantilly,
Quest Diagnostics Nichols Institute,
14225 Newbrook Drive, Chantilly, VA 20151
Patrick W Mason, M.D., Ph.D., Director of Laboratories
(703) 802-6900, CLIA 49D0221801

BUPRENORPUR NEGATIVE

11/16/2015

Reference range: <2
Unit: ng/mL

NORBUPRENUR NEGATIVE

11/16/2015

Reference range: <2
Unit: ng/mL

NORBUPRENUR

11/16/2015

(NOTE)

Test Performed by Quest, Chantilly,
Quest Diagnostics Nichols Institute,
14225 Newbrook Drive, Chantilly, VA 20151
Patrick W Mason, M.D., Ph.D., Director of Laboratories
(703) 802-6900, CLIA 49D0221801

ASSESSMENT/PLAN:

1. Pain of back and right lower extremity as patient has failed conservative treatment including pain medication and Neurontin. We will proceed with a right L4 transforaminal epidural steroidal injection.

Procedure risk and benefits discussed with patient which includes but not limited to infection, bleeding, allergy, steroid flare and rare chance of nerve damage. Patient voices understanding it. Patient was educated about off label use of steroid in epidural space.

2. Herniated nucleus pulposus, L3-4 right. I reviewed his DHEC report we will refill his prescriptions today.

3. Lumbar radiculopathy, chronic.

4. The patient was advised to continue all other medications as prescribed by other treating physicians/providers.

Please note that some or all of this record was generated using voice recognition software. If there are any questions about the content of this document, please contact the author as some errors in transcription may have occurred JM/mbm

No orders of the defined types were placed in this encounter.

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 03/22/16

Progress Notes (continued)

Jyoti K Math, MD at 3/22/2016 10:53 AM (continued)

Electronically signed by Marie B Maxwell on 3/23/2016 4:11 PM

H&P Notes

No notes of this type exist for this encounter.

Follow-up and Disposition History

User	Date & Time
MATH, JYOTI	3/22/2016 11:17 AM

Disposition:

Return for ESI.

Follow-up:

N/A

Instructions:

N/A

Check-out Note:

N/A

Send Reminder:

N/A

Encounter-Level Documents - 03/22/2016:

Document on 3/22/2016 11:25 AM by Marlene Vanhooose : AVS - Outpatient (below)

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 03/22/16



Sanitad De Jesu Paulino-Bautista

Date: 3/22/2016 Physician: Jyoti K Meh, MD Specialty: Physiatry-Patwood Referring Physician: [REDACTED] Referring Facility: 200 Patewood Dr, Suite C100 Greenville SC 29615-6322

Information on Demographics
Race: Male Ethnicity: Hispanic or Latino Language: Spanish Preferred Language: Spanish

Instructions for Referral
Return for ESI

Future Care
Tuesday May 03, 2016 9:00 AM Appointment with Daryl Lynn Lapoyrolere at Cypress Internal Medicine, Patewood (604-454-2220). Bring all previous medical records and forms, along with current medications and insurance information. (Greenville, 200 Patewood Dr, Suite C100)

Reasons
Begin las indicaciones Imaging: Lumbar Transforaminal Epidural Follow-up with Dr. Meh

Medication History

En la historia de medicamentos se han incluido los medicamentos que el paciente ha tomado.

Características Principales de los Medicamentos

Medication	Dosage	Frequency
cyclobenzaprine 5 mg tablet	5 mg	Take 1 tablet (5 mg) by mouth daily.
gabapentin 400 mg capsule	400 mg	Take 1 capsule (400 mg) 3 (three) times a day.
tramadol 50 mg tablet	50 mg	Take 1 tablet (50 mg) by mouth every 6 (six) hours.

Donde puede comprar sus medicamentos

Medicamentos que se pueden comprar en una farmacia especializada, en una farmacia o en una tienda de alimentos.
WAL-MART PHARMACY 1244 TAYLORS, SC - 3027 WADE HAMPTON BLVD
TAYLORS, SC - 3027 WADE HAMPTON BLVD
Farmacia: 604-454-2220

La información sobre cómo comprar sus medicamentos son de uso informativo. Consulte a su farmacéutico.

Paulino-Bautista, Samuel De Jesu (MRN: [REDACTED] DOB: [REDACTED])

Page 1 of 2

Document on 3/22/2016 11:25 AM by Marlene Vanhoose : AVS - Outpatient (below)

ORTHO/NEURO PATEWOOD C-100
200 Patewood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 03/22/16

Traducción:

Otros Detalles de Esta Visita

Present Problem List as of 3/22/2016

Leg pain, right
Hemiated nucleus pulposus, L3-4
Hemiated nucleus pulposus, L3-4 right
Pain of back and right lower extremity
Muscle weakness
Difficulty walking
Back stiffness
R/L lower extremity numbness
Lumbar radiculopathy, chronic
Chronic low back pain
Sacroiliac inflammation

Allergies

No Known Allergies

Physical Vitals

Pre-Visit Weight	Height	Weight	Smoking Status
141/69 mmHg	5'2"	78.489 kg (162 lb)	Never Smoker

Gifts to MyChart

MyChart le permite enviar mensajes a su doctor, ver resultados de sus pruebas, renovar sus recetas, programar citas, y más. Para inscribirse, vaya a mychart.ohs.org y haga clic en el enlace "Sign Up Now" en la casilla de nuevo usuario (New User?). Introduzca su Código de Activación de MyChart exactamente como aparece abajo, junto con los últimos cuatro dígitos de su Número de Seguro Social y su Fecha de Nacimiento, para completar el proceso de iniciación de la sesión. Si usted no inicia la sesión antes de la fecha de caducidad, necesita solicitar un nuevo código.

Código de Activación de MyChart: MHCW2-Z36JN-64P-JX

Expires: 4/5/2016 11:25 AM

Si tiene preguntas, puede enviar un correo electrónico a MyChartPortal@ohs.org o llamar al (844) 432-8893 para hablar con nuestro personal de MyChart. Recuerde, MyChart NO debe usarse para necesidades urgentes. Para emergencias médicas, marque 911.

Paulino-Bautista, Samuel De Jesu (MRN [REDACTED] DOB: [REDACTED])

Page 2 of 2

Scan on 3/24/2016 12:00 PM by Denise Harnesberger : UMR 2016.03.22 PRE-PROC INSTR (below)

ORTHO/NEURO PATEWOOD C-100
200 Patwood Drive, Ste. C100
Greenville SC 29615-6322
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESU
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 03/22/16

Greenville Health System

☒ Patwood Memorial Hospital
375 Patwood Drive
Greenville, SC 29615
(864) 797-1000

☐ Update Medical Rehabilitation
305/313 Doctor's Drive
Greenville, SC 29603
(864) 797-7100
Fax (864) 243-8229 NEW H. 3/19/16

☐ Patwood Building C
200 Patwood Drive
Greenville, SC 29605
(864) 797-7100

30 **Pain Management Pre-Procedure Instructions**
Please to arrive 30 minutes prior to allow adequate time for check in and preparation. You can expect to be at the facility for 1-1.5 hours, although the procedure itself is very short. You must have someone with you to drive you home. If you arrive without a driver, procedure will be rescheduled.

If you need to cancel or reschedule this appointment, please call the Procedure Scheduling Line at (864) 797-7125 at least 24 hours prior to your scheduled appointment time.

Before Your Procedure

If you have a fever, any solid symptoms, or are on an antibiotic, please call the Procedure Scheduling Line at (864) 797-7125 24 hours prior to your procedure. You will be transferred to a Medical Assistant who will discuss your symptoms with the physician and a decision will be made as to whether the procedure/injection should be rescheduled.

Medication Alert

If you take COUMADIN, HEPARIN, LOVENOX, or a newer blood thinner or anticoagulant such as XEPANNE, cardiac clearance is required before stopping your medication and scheduling your procedure.

PACEMAKER: YES ☐ NO ☒ Blood Thinner: NO Cardiac Clearance: NS/A

If you take Plavix, you must stop taking this medication 7 days prior to your scheduled procedure.

It is important for you to tell us if you are taking any of these medications, so the office can keep your medical record up to date or assist you in contacting the prescribing physician.

On the day of your procedure

- You may shower, dress and wear makeup as you normally would. Please remove fingernail polish from at least one index finger.
- Take all prescribed medications other than the medications you were instructed to stop taking.
- If you are diabetic, please record your blood sugar on the morning of the scheduled treatment and bring it with you to your appointment. Must be under 200 for the procedure.

Upon arrival for your procedure - Please let us know if: You have had any recent changes in your health such as chest pain, admission to the hospital or flu like symptoms.

COUMADIN patients will be given a PT/INR test prior to your procedure.

NO FOOD OR DRINK FOR 4 HOURS PRIOR TO YOUR PROCEDURE

For A.M. Procedure: you may have clear liquids for breakfast (such as apple juice, tea without milk, black coffee). For P.M. Procedure: you may eat breakfast and have clear liquids for lunch.

Patent's Signature: Samuel De Jesus Paulino Bautista Print Name: Samuel De Jesus Paulino Bautista Date: 3/22/16 Time: 11:10
Physician's Signature: [Signature] Print Name: [Signature] Date: 3/22/16 Time: 11:10

C:\work\13\apps\local\new\new\Temporary Internet Files\Content.Outlook\KAPHD383\Pre Procedure
DRAFT.docx Pre-Procedure Rev. 3/18/2015

Order-Level Documents:

There are no order-level documents.

END OF REPORT

PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 09/28/16

Medications (continued)

Telephone Encounter

Call Information

	Provider	Department	Center
9/28/2016 3:30 PM	Pamela Sisk, NP	Physiatry-Crossck 111	109 DD

Reason for Call

Lower Back - pain

Medication Refill

Tramadol last dose 2:00am 9/28/16, last fill 8/15/16, left # 0

Call Documentation

No notes of this type exist for this encounter.

Care Advice Given

No Care Advice given for this encounter.

Orders

All Orders and Results Except Lab and Imaging

No orders and results found

Result Summary

All Lab and Imaging Orders and Results

No orders and results found

Progress Notes

Pamela Sisk, NP at 9/28/2016 3:48 PM

Author Type: Nurse Practitioner Status: Signed

Cosigner: Jyoti K Math, MD at 9/29/2016
3:09 PM

Subjective:

Subjective

Patient ID: Samuel De Jesu Paulino-Bautista is a 36 y.o. male

Chief Complaint

Patient presents with

- Lower Back - pain
- Medication Refill

Tramadol last dose 2:00am 9/28/16, last fill 8/15/16, left # 0

HPI:

HPI Comments: OLD HISTORY:

1. Patient is seen at the request of Dr. McHenry. Back pain with radiculopathy status post right L3-L4 microdiscectomy on July 30, 2015. Continues to have persistent chronic right leg radicular pain. Status post

Generated on 5/22/2017 2:13 PM

Page 4

Progress Notes (continued)

Pamela Sisk, NP at 9/28/2016 3:46 PM (continued)

MRI of lumbar spine on 10/7/2015 shows minimal epidural fibrosis. Otherwise unremarkable. Not a surgical candidate as per Dr. McHenry. Has failed PT and anti-inflammatory medications. Status post right L4 transforaminal epidural steroid injection on August 2, 2016 with only 10% improvement

Returns today for a Worker's Compensation follow-up and medication management visit. He is seen in the presence of a Spanish interpreter. Continues to have significant low back and lateral leg pain. Describes his pain as constant and sharp shooting. Pain becomes worse with ambulation. Does his last dose of Flexeril last night. Last gabapentin this morning. Denies side effects from the medication. He is requesting tramadol prescription. Discussed with patient due to his refusal of UDS at previous visit we are no longer comfortable providing tramadol for him. He states it was early in the morning and he didn't feel like urinating at previous visit. Explained to patient we will continue to provide Flexeril and gabapentin. He can discuss tramadol with PCP.

Pain Assessment

Pain Assessment: 0-10

Pain Score: 6

Pain Location: Back

Pain Orientation: Lower

Pain Descriptors: Sharp

Pain Frequency: Constant/continuous

Pain Onset: Ongoing

Clinical Progression: Not changed

Aggravating Factors: Prolonged Sitting, Standing, Walking

Pain Limitations: General Activity

Result of Injury: Yes

Work-Related Injury: Yes

Patient's Stated Pain Goal: No pain

Pain Intervention(s): Medication (See MAR)

ROS:

Review of Systems

Constitutional: Negative.

HENT: Negative.

Eyes: Negative.

Respiratory: Negative.

Cardiovascular: Negative.

Gastrointestinal: Negative.

Endocrine: Negative.

Genitourinary: Negative.

Musculoskeletal: Positive for back pain.

Skin: Negative.

Allergic/Immunologic: Negative.

Neurological:

Lumbar radiculopathy

Hematological: Negative.

Psychiatric/Behavioral: Negative.

Progress Notes (continued)

Pamela Sisk, NP at 9/28/2016 3:46 PM (continued)

Objective:

Objective

BP 149/96 mmHg | Pulse 132 | Resp 17 | Ht 1.727 m (5' 8") | Wt 73.483 kg (162 lb) | BMI 24.64 kg/m2

Physical Exam

Physical Exam

Constitutional: Patient is oriented to person, place, and time. Patient appears well-developed and well-nourished.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Conjunctivae and EOM are normal.

Pulmonary/Chest: Effort normal.

Abdominal: Soft.

Neurological: Patient is alert and oriented to person, place, and time. Gait normal.

Skin: Skin is warm and dry. No rash noted. No erythema.

Psychiatric: Patient has a normal mood and affect. Patient's behavior is normal. Thought content normal

Ortho Exam

Transfers independently from sit to stand. Tenderness over lumbar intravertebral ligaments. Lumbar flexion and extension severely limited painful. Ambulates with an antalgic gait the assistance of a straight cane. Strength in bilateral lower extremities normal.

Lab Results

Component	Value	Date
MORPHINE	Neg	11/16/2015
OXYMORPHONE	Neg	11/16/2015
HYDROMORPH	Neg	11/16/2015
CODEINE	Neg	11/16/2015
OXYCODONE	Neg	11/16/2015
NOROXYCO	Neg	11/16/2015
HYDROCO	Neg	11/16/2015
NORHYDROCO	Neg	11/16/2015
CANNABUR	Neg	11/16/2015
COCAINE	Neg	11/16/2015
AMINES	Neg	11/16/2015

PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 09/28/16

Progress Notes (continued)

Pamela Sisk, NP at 9/28/2016 3:46 PM (continued)

BENZOURQL	Neg	11/16/2015
BARBITURATES	Neg	11/16/2015
METHSCRNUR	Neg	11/16/2015
TRICYCLIC	Neg	11/16/2015
FENTANYLUR	Neg	11/16/2015
TRAMADOLUR	5800	11/16/2015

Reference range: <100
Unit: ng/mL

TRAMADOLUR		11/16/2015
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(NOTE)

Test Performed by Quest, Chantilly,
Quest Diagnostics Nichols Institute,
14225 Newbrook Drive, Chantilly, VA 20151
Patrick W Mason, M.D., Ph.D., Director of Laboratories
(703) 802-6900, CLIA 49D0221801

BUPRENORPUR	NEGATIVE	11/16/2015
	Reference range: <2	
	Unit: ng/mL	

NORBUPRENUR	NEGATIVE	11/16/2015
	Reference range: <2	
	Unit: ng/mL	

NORBUPRENUR		11/16/2015
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(NOTE)

Test Performed by Quest, Chantilly,
Quest Diagnostics Nichols Institute,
14225 Newbrook Drive, Chantilly, VA 20151
Patrick W Mason, M.D., Ph.D., Director of Laboratories
(703) 802-6900, CLIA 49D0221801

Current Outpatient Rx

Name	Route	Sig	Dispense	Refill
• cyclobenzaprine (FLEXERIL) 5 MG tablet	Oral	Take 1 tablet (5 mg) by mouth daily.	28 tablet	0
• gabapentin	Oral	Take 1 capsule (400	84 capsule	0

Generated on 5/22/2017 2:13 PM

Page 7

Progress Notes (continued)

Pamela Sisk, NP at 9/28/2016 3:46 PM (continued)

(NEURONTIN) 400 mg capsule mg) 3 (three) times a day.

Assessment/Plan:

Assessment

1. Lumbar radiculopathy, chronic: Refill gabapentin 400 mg 1 tab every 8 hours 28 day supply with 0 refills. Refill cyclobenzaprine 5 mg 1 tab at bedtime as needed for muscle spasms #28 with 0 refills.
2. Herniated nucleus pulposus, L3-4 right : Referral to orthopedic surgeon placed 9/8/16, Discussed with patient we will no longer be providing tramadol due to his refusal of UDS at previous visit. He verbalized understanding.
3. The patient was advised to continue all medications as prescribed by other treating physicians. These recommendations on today's visit are made based upon their report of current medications. The patient was also strongly advised to contact their primary care physician and other treating physicians with any changes in their medication list or allergies, including vitamins and herbal supplements. This recommendation is made to lower the potential for drug to drug interactions and adverse effects.

Please note that some or all of this record was generated using voice recognition software. If there are any questions about the content of this document, please contact the author as some errors in transcription may have occurred. PS/sc

No orders of the defined types were placed in this encounter.

Electronically signed by Jyoti K Math, MD on 9/29/2016 3:09 PM

H&P Notes

No notes of this type exist for this encounter.

Follow-up and Disposition History

User	Date & Time
SISK, PAMELA	9/28/2016 4:05 PM

Disposition:

Return in about 4 weeks (around 10/26/2016) for PAM.

PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 09/28/16

Disposition: (continued)

Follow-up:

N/A

Instructions:

N/A

Check-out Note:

N/A

Send Reminder:

N/A

Encounter-Level Documents - 09/28/2016:

Document on 9/28/2016 4:12 PM by Anita Foster : AVS - Outpatient (below)

Paulino-Bautista, Samuel De Jesus (MRN # [REDACTED])
 DOB: [REDACTED]

Patient Demographics

Name	Patient ID	SSN	Sex	Birth Date
Paulino-Bautista, Samuel De Jesus	[REDACTED]	xxx-xx-5127	Male	[REDACTED] (37 yrs)
Address	Phone	EMail	Employer	
[REDACTED] SC 29615-3024	[REDACTED]	[REDACTED]	UNEMPLOYED	
Race	Occupation	Emp Status		
Hispanic		Not Employed		
Reg Status	POP			
ELAPSED	Mary K Duran, MD864-560-9507			
HAR	Admission Date	Discharge Date	Admitting Provider	
Marital Status	Religion	Language		
Married	Christian (Independ)	Spanish		
Emergency Contact 1	Emergency Contact 2			
Jerry Nunez (Spouse)	Paula Acosta (Relative)			
[REDACTED] SC 29615-3024	[REDACTED]			

Visit Summary

Reason for Visit

Lower Back - pain

Medication Refill

Tramadol last dose 2:00am 9/28/16, last fill 8/15/16, left # 0

Diagnoses

Lumbar radiculopathy, chronic - Primary

Herniated nucleus pulposus, L3-4 right

Problem List as of 9/28/2016

Date Reviewed: 9/28/2016

	Codes	Priority	Class	Noted - Resolved
Leg pain, right	ICD-9-CM: 729.5 ICD-10-CM: M79.604			Unknown - Present
Herniated nucleus pulposus, L3-4	ICD-9-CM: 722.10 ICD-10-CM: M51.26			7/15/2015 - Present
Herniated nucleus pulposus, L3-4 right	ICD-9-CM: 722.10 ICD-10-CM: M51.26			7/20/2015 - Present
Pain of back and right lower extremity	ICD-9-CM: 724.5, 729.5 ICD-10-CM: M54.9, M79.604			9/3/2015 - Present
Muscle weakness	ICD-9-CM: 728.87 ICD-10-CM: M62.81			9/3/2015 - Present
Difficulty walking	ICD-9-CM: 719.7 ICD-10-CM: R26.2			10/1/2015 - Present
Back stiffness	ICD-9-CM: 724.8 ICD-10-CM: M25.60			10/1/2015 - Present
S/P lumbar microdiscectomy	ICD-9-CM: V45.89 ICD-10-CM: Z98.89			10/1/2015 - Present

Generated by MEB15B at 5/22/17 2:13 PM

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PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 09/28/16

Visit Summary (continued)

Problem List as of 9/28/2016 (continued)

Date Reviewed: 9/28/2016

	Codes	Priority	Class	Noted - Resolved
Lumbar radiculopathy, chronic	ICD-9-CM: 724.4 ICD-10-CM: M54.16			11/13/2015 - Present
Chronic low back pain	ICD-9-CM: 724.2, 338.29 ICD-10-CM: M54.5, G89.29			1/5/2016 - Present
Sacroiliac inflammation	ICD-9-CM: 720.2 ICD-10-CM: M46.1			1/5/2016 - Present

Allergies as of 9/28/2016

No Known Allergies

Reviewed On: 9/28/2016 By: Pamela Sisk, NP

Immunizations

None

Vital Signs

Most recent update: 9/28/2016 3:50 PM by
Stephanie Cody, CMA

BP	Pulse	Reso	HT	WT	BMI
(1) 149/86 mmHg	132	17	1.727 m (5' 8")	73.483 kg (162 lb)	24.64 kg/m2

Vitals History

Medical

as of 9/28/2016

Past Medical History	Date	Comments	Source
Back pain			Provider
Low back pain			Provider
Leg pain, right			Provider
Lumbosacral disc disease			Provider
Pain of back and right lower extremity	9/9/2015		Provider
Muscle weakness	9/3/2015		Provider
Difficulty walking	10/1/2015		Provider
Back stiffness	10/1/2015		Provider
S/P lumbar microdiscectomy	10/1/2015		Provider
Hypertension			Provider

Surgical

as of 9/28/2016

Past Surgical History	Laterality	Date	Comments
MICRODISCECTOMY LUMBAR		07.30.2015	Dr. Timothy Mogen

Family

as of 9/28/2016

Problem	Relation	Name	Age of Onset	Comments	Source
Diabetes	Mother				Provider
Hypertension	Mother				Provider
Diabetes	Father				Provider
Hypertension	Father				Provider

Family Status

as of 9/28/2016

Relation	Name	Status	Death Age	Comments	Source
Mother		Alive			Provider
Father		Alive			Provider

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PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 09/28/16

Visit Summary (continued)

Daughter	Healthy	Provider
Son	x2, Healthy	Provider

Tobacco Use	Smoking Status	Source	Types	Packs/day	Years Used	Comments	Smoking Start Date	Smoking Quit Date	Smokeless Tobacco Status	Smokeless Tobacco Quit Date
as of 9/28/2016	Never Smoker	Provider		0.0	0.0				Never Used	

Alcohol Use	Alcohol Use	Source	Drinks/Week	Alcohol/Wk	Comments
as of 9/28/2016	No	Provider			

Drug Use	Drug Use	Source	Types	Frequency	Comments
as of 9/28/2016	No	Provider		0.00	

Sexual Activity	Sexually Active	Source	Birth Control	Partners	Comments
as of 9/28/2016	Yes	Provider	None	Female	

Social ADL	ADL Question	Response	Comments	Source
as of 9/28/2016	**None**			

Occupational	**None**
as of 9/28/2016	

Socioeconomic	Marital Status	Spouse Name	Num of Children	Years Education	Source
as of 9/28/2016	Married				
	Preferred Language	Ethnicity	Race		
	Spanish	Hispanic or Latino	Hispanic		

Medications

Medications at Start of Encounter

	Disp	Refills	Start	End
cyclobenzaprine (FLEXERIL) 5 MG tablet (Discontinued) Sig - Route: Take 1 tablet (5 mg) by mouth daily. - Oral Reason for Discontinue: Reorder (won't display on AVS) Cosign for Ordering: Accepted by Pamela Sisk, NP on 9/8/2016 4:33 PM	28 tablet	0	9/8/2016	9/28/2016
gabapentin (NEURONTIN) 400 mg capsule Sig - Route: Take 1 capsule (400 mg) 3 (three) times a day. - Oral Cosign for Ordering: Accepted by Pamela Sisk, NP on 9/8/2016 4:33 PM	84 capsule	0	9/8/2016	10/31/2016

Discontinued Medications

	Reason for Discontinue
cyclobenzaprine (FLEXERIL) 5 MG tablet	Reorder (won't display on AVS)

Ordered Medications

	Disp	Refills	Start	End
cyclobenzaprine (FLEXERIL) 5 MG tablet Sig - Route: Take 1 tablet (5 mg) by mouth daily. - Oral	28 tablet	0	9/28/2016	

PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-6608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 10/31/16

Progress Notes (continued)

Pamela Sisk, NP at 10/31/2016 4:58 PM (continued)

Author Type: Nurse Practitioner

Status: Signed

Cosigner: Jyoti K Math, MD at 11/1/2016
11:28 AM

Subjective:

Subjective

Patient ID: Samuel De Jesu Paulino-Bautista is a 36 y.o. male

Chief Complaint

Patient presents with

- Lower Back - back pain

HPI:

HPI Comments: OLD HISTORY:

1. Patient is seen at the request of Dr. McHenry. Back pain with radiculopathy status post right L3-L4 microdiscectomy on July 30, 2015. Continues to have persistent chronic right leg radicular pain. Status post MRI of lumbar spine on 10/7/2015 shows minimal epidural fibrosis. Otherwise unremarkable. Not a surgical candidate as per Dr. McHenry. Has failed PT and anti-inflammatory medications. Status post right L4 transforaminal epidural steroid injection on August 2, 2016 with only 10% improvement

returns today for a August compensation follow-up and medication management visit. Patient states his been no change in his pain since his previous visit. Continues to have significant pain in his low back and right lower extremity. Discussed pain as a constant ache which becomes worse with long periods of sitting. Denies side effects from his medication. No history of cancer or osteoporosis. No progressive weakness, change in bowel bladder habits, unexplained fevers or unexplained weight loss.

ROS:

Review of Systems

Constitutional: Negative for fever.

HENT: Negative.

Eyes: Negative.

Respiratory: Negative. Negative for cough and shortness of breath.

Cardiovascular: Negative.

Gastrointestinal: Negative. Negative for nausea, vomiting, diarrhea and constipation.

Endocrine: Negative.

Genitourinary: Negative.

Musculoskeletal: Positive for back pain and gait problem.

Skin: Negative. Negative for color change and pallor.

Allergic/Immunologic: Negative.

Neurological: Negative for weakness.

Hematological: Negative.

Psychiatric/Behavioral: Negative.

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Progress Notes (continued)

Pamela Sisk, NP at 10/31/2016 4:58 PM (continued)

Objective:

Objective

There were no vitals taken for this visit.

Physical Exam

Physical Exam

Constitutional: Patient is oriented to person, place, and time. Patient appears well-developed and well-nourished.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Conjunctivae and EOM are normal.

Pulmonary/Chest: Effort normal.

Abdominal: Soft.

Neurological: Patient is alert and oriented to person, place, and time. Gait normal.

Skin: Skin is warm and dry. No rash noted. No erythema.

Psychiatric: Patient has a normal mood and affect. Patient's behavior is normal. Thought content normal

Ortho Exam

Transfers independently from sit-to-stand. Tenderness over bilateral lumbar facet joints and lumbar intervertebral ligaments. Lumbar flexion and extension severely limited painful. He indicates with an antalgic gait and the assistance of a straight cane. Strength in bilateral lower extremities normal

Lab Results

Component	Value	Date
MORPHINE	Neg	11/16/2015
OXYMORPHONE	Neg	11/16/2015
HYDROMORPH	Neg	11/16/2015
CODEINE	Neg	11/16/2015
OXYCODONE	Neg	11/16/2015
NOROXYCO	Neg	11/16/2015
HYDROCO	Neg	11/16/2015
NORHYDROCO	Neg	11/16/2015
CANNABUR	Neg	11/16/2015
COCAINE	Neg	11/16/2015
AMINES	Neg	11/16/2015
BENZOURQL	Neg	11/16/2015
BARBITURATES	Neg	11/16/2015
METHSCRNUR	Neg	11/16/2015
TRICYCLIC	Neg	11/16/2015
FENTANYLUR	Neg	11/16/2015

PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED], Sex: M
Enc. Date: 10/31/16

Progress Notes (continued)

Pamela Sisk, NP at 10/31/2016 4:58 PM (continued)

TRAMADOLUR	5800	11/16/2015
	Reference range: <100	
	Unit: ng/mL	
	*	

TRAMADOLUR		11/16/2015
------------	--	------------

(NOTE)

Test Performed by Quest, Chantilly,
Quest Diagnostics Nichols Institute,
14225 Newbrook Drive, Chantilly, VA 20151
Patrick W Mason, M.D., Ph.D., Director of Laboratories
(703) 802-6900, CLIA 49D0221801

BUPRENORPUR	NEGATIVE	11/16/2015
	Reference range: <2	
	Unit: ng/mL	

NORBUPRENUR	NEGATIVE	11/16/2015
	Reference range: <2	
	Unit: ng/mL	

NORBUPRENUR		11/16/2015
-------------	--	------------

(NOTE)

Test Performed by Quest, Chantilly,
Quest Diagnostics Nichols Institute,
14225 Newbrook Drive, Chantilly, VA 20151
Patrick W Mason, M.D., Ph.D., Director of Laboratories
(703) 802-6900, CLIA 49D0221801

Current Outpatient Rx

Name	Route	Sig	Dispense	Refill
• cyclobenzaprine (FLEXERIL) 5 MG tablet	Oral	Take 1 tablet (5 mg) by mouth daily.	28 tablet	0
• gabapentin	Oral	Take 1 capsule (400	84 capsule	2

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PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 10/31/16

Progress Notes (continued)

Pamela Sisk, NP at 10/31/2016 4:58 PM (continued)

(NEURONTIN) 400 mg capsule		mg) 3 (three) times a day.		
• DISCONTD: gabapentin (NEURONTIN) 400 mg capsule	Oral	Take 1 capsule (400 mg) 3 (three) times a day.	84 capsule	0

Assessment/Plan:

Assessment

1. Lumbar radiculopathy, chronic : Refill gabapentin 400 mg 1 tab every 8 hours max of 3 per day 28 day supply with 2 refills. Follow-up in 3 months.
2. The patient was advised to continue all medications as prescribed by other treating physicians. These recommendations on today's visit are made based upon their report of current medications. The patient was also strongly advised to contact their primary care physician and other treating physicians with any changes in their medication list or allergies, including vitamins and herbal supplements. This recommendation is made to lower the potential for drug to drug interactions and adverse effects.

Please note that some or all of this record was generated using voice recognition software. If there are any questions about the content of this document, please contact the author as some errors in transcription may have occurred. PS/sc

No orders of the defined types were placed in this encounter.

Electronically signed by Jyoti K Math, MD on 11/1/2016 11:28 AM

H&P Notes

No notes of this type exist for this encounter.

Follow-up and Disposition History

User	Date & Time
SISK, PAMELA	10/31/2016 5:05 PM

Disposition:

Return in about 3 months (around 1/31/2017) for MATH.

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PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 10/31/16

Disposition: (continued)

Follow-up:

N/A

Instructions:

N/A

Check-out Note:

N/A

Send Reminder:

N/A

Encounter-Level Documents - 10/31/2016:

Document on 10/31/2016 5:07 PM by Octavia Johnson : AVS - Outpatient (below)

PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 10/31/16

Visit Summary

Reason for Visit

Lower Back - back pain

Diagnoses

Lumbar radiculopathy, chronic - Primary

Problem List as of 10/31/2016

Date Reviewed: 10/31/2016

	Codes	Priority	Class	Noted
Leg pain, right	ICD-9-CM: 729.5 ICD-10-CM: M79.604			Resolved Unknown - Present
Herniated nucleus pulposus, L3-4	ICD-9-CM: 722.10 ICD-10-CM: M51.26			7/15/2015 - Present
Herniated nucleus pulposus, L3-4 right	ICD-9-CM: 722.10 ICD-10-CM: M51.26			7/20/2015 - Present
Pain of back and right lower extremity	ICD-9-CM: 724.5, 729.5 ICD-10-CM: M54.9, M79.604			9/3/2015 - Present
Muscle weakness	ICD-9-CM: 728.87 ICD-10-CM: M62.81			9/3/2015 - Present
Difficulty walking	ICD-9-CM: 719.7 ICD-10-CM: R26.2			10/1/2015 - Present
Back stiffness	ICD-9-CM: 724.8 ICD-10-CM: M25.60			10/1/2015 - Present
S/P lumbar microdiscectomy	ICD-9-CM: V45.89 ICD-10-CM: Z98.890			10/1/2015 - Present
Lumbar radiculopathy, chronic	ICD-9-CM: 724.4 ICD-10-CM: M54.16			11/13/2015 - Present
Chronic low back pain	ICD-9-CM: 724.2, 338.29 ICD-10-CM: M54.5, G89.29			1/5/2016 - Present
Sacroiliac inflammation	ICD-9-CM: 720.2 ICD-10-CM: M46.1			1/5/2016 - Present

Allergies as of 10/31/2016

No Known Allergies

Reviewed On: 10/31/2016 By: Pamela Sisk, NP

Immunizations

None

Medical

as of 10/31/2016

Past Medical History	Date	Comments	Source
Back pain			Provider
Low back pain			Provider
Leg pain, right			Provider
Lumbosacral disc disease			Provider
Pain of back and right lower extremity	9/3/2015		Provider
Muscle weakness	9/3/2015		Provider
Difficulty walking	10/1/2015		Provider

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PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 10/31/16

Visit Summary (continued)

Back stiffness	10/1/2015	Provider
S/P Lumbar microdiscectomy	10/1/2015	Provider
Hypertension		Provider

Surgical as of 10/31/2016	Past Surgical History	Laterality	Date	Comments
	MICRODISCECTOMY LUMBAR		07.30.2015	Dr. Timothy Michenry

Family as of 10/31/2016	Problem	Relation	Name	Age of Onset	Comments	Source
	Diabetes	Mother				Provider
	Hypertension	Mother				Provider
	Diabetes	Father				Provider
	Hypertension	Father				Provider

Family Status as of 10/31/2016	Relation	Name	Status	Death Age	Comments	Source
	Mother		Alive			Provider
	Father		Alive			Provider
	Daughter				Healthy	Provider
	Son				x2, Healthy	Provider

Tobacco Use as of 10/31/2016	Smoking Status	Source	Types	Packs/day	Years Used	Comments	Smoking Start Date	Smoking Quit Date	Smokeless Tobacco Status	Smokeless Tobacco Quit Date
	Never Smoker	Provider		0.0	0.0				Never Used	

Alcohol Use as of 10/31/2016	Alcohol Use	Source	Drinks/Week	Alcohol/Wk	Comments
	No	Provider			

Drug Use as of 10/31/2016	Drug Use	Source	Types	Frequency	Comments
	No	Provider		0.00	

Sexual Activity as of 10/31/2016	Sexually Active	Source	Birth Control	Partners	Comments
	Yes	Provider	None	Female	

Social ADL as of 10/31/2016	ADL Question	Response	Comments	Source
	None			

Occupational
as of 10/31/2016
None

Socioeconomic as of 10/31/2016	Marital Status	Spouse Name	Num of Children	Years Education	Source
	Married				
	Preferred Language	Ethnicity	Race		
	Spanish	Hispanic or Latino	Hispanic		

Medications

Medications at Start of Encounter

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PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 10/31/16

Medications (continued)

Medications at Start of Encounter (continued)

	Disp	Refills	Start	End
cyclobenzaprine (FLEXERIL) 5 MG tablet	28 tablet	0	9/28/2016	
Sig - Route: Take 1 tablet (5 mg) by mouth daily. - Oral				
gabapentin (NEURONTIN) 400 mg capsule	84 capsule	0	9/8/2016	10/31/2016
(Discontinued)				
Sig - Route: Take 1 capsule (400 mg) 3 (three) times a day. - Oral				
Reason for Discontinue: Reorder (won't display on AVS)				
Cosign for Ordering: Accepted by Pamela Sisk, NP on 9/8/2016 4:33 PM				

Discontinued Medications

	Reason for Discontinue
gabapentin (NEURONTIN) 400 mg capsule	Reorder (won't display on AVS)

Ordered Medications

	Disp	Refills	Start	End
gabapentin (NEURONTIN) 400 mg capsule	84 capsule	2	10/31/2016	
Sig - Route: Take 1 capsule (400 mg) 3 (three) times a day. - Oral				

Telephone Encounter

Call Information

	Provider	Department	Center
10/31/2016 4:15 PM	Pamela Sisk, NP	Physiatry-Crossck 111	109 DD

Reason for Call

Lower Back - back pain

Call Documentation

No notes of this type exist for this encounter.

Care Advice Given

No Care Advice given for this encounter.

Orders

All Orders and Results Except Lab and Imaging

No orders and results found

Result Summary

All Lab and Imaging Orders and Results

No orders and results found

Progress Notes

Pamela Sisk, NP at 10/31/2016 4:58 PM

PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 10/31/16

Ann Hughes

From: Marvic Lopez-DeHaas <Marvic.DeHaas@GUARD.com>
Sent: Wednesday, October 19, 2016 7:32 AM
To: Ann Hughes; Ann Hughes
Subject: RE: [EXTERNAL] FW: SAMUEL DE JESU PAULINO-BAUTISTA BWCS57786004

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Ann,

Sorry for the confusion on this case. We been litigating this denied claim for quite some time now. The ruling just came back last week, denying compensability of the claim. I expect that an appeal will be filed, however, I cannot approve any treatment/referral on this claim at this time.

Thanks

Marvic Lopez-DeHaas
SENIOR CLAIMS REPRESENTATIVE
Berkshire Hathaway GUARD Insurance Companies
marvic.dehaas@guard.com
570-625-9008, ext. 8502

From: Ann Hughes [mailto:AnnHughes2@ghs.org]
Sent: Tuesday, October 18, 2016 4:40 PM
To: Marvic Lopez-DeHaas <Marvic.DeHaas@GUARD.com>
Subject: [EXTERNAL] FW: SAMUEL DE JESU PAULINO-BAUTISTA BWCS57786004

This is my third request for approval to send Samuel for a surgical opinion.
Please let me know your decision.

Thank you,

Ann Hughes
Work Comp Coordinator
University Medical Group
Greenville Health System
Upstate Medical Rehabilitation
Ph. (854) 797-7031
Fax: (864) 797-7035
Ahughes2@ghs.org

From: Ann Hughes
Sent: Tuesday, October 11, 2016 3:05 PM
To: Marvic Lopez-DeHaas
Subject: FW: SAMUEL DE JESU PAULINO-BAUTISTA BWCS57786004

Hi Marvic,

PHYSIATRY CROSSCREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Amb Encounter Report

PAULINO-BAUTISTA, SAMUEL DE
JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Enc. Date: 10/31/16

Just need to check on the status of the referral below that I faxed to you on 09-23-16.

Ann Hughes
Work Comp Coordinator
University Medical Group
Greenville Health System
Upstate Medical Rehabilitation
Ph: (864) 797-7031
Fax: (864) 797-7033
ahughes2@ghs.org

From: Ann Hughes
Sent: Friday, September 23, 2016 10:45 AM
To: 'Marvic Lopez-DeHias'
Subject: SAMUEL DE JESU PAULINO-BAUTISTA, BWCSS77E6004

Hi Marvic,

Please review office notes to approve referral to Dr. McHenry, Ortho Surgeon for a surgical opinion.

Please advise,

Ann Hughes
Work Comp Coordinator
University Medical Group
Greenville Health System
Upstate Medical Rehabilitation
Ph: (864) 797-7031
Fax: (864) 797-7033
ahughes2@ghs.org

From: VK43@ghs.org [<mailto:VK43@ghs.org>]
Sent: Friday, September 23, 2016 10:38 AM
To: Ann Hughes
Subject: Scanned Document

***** CONFIDENTIALITY NOTICE *****

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THANK YOU

2

Order-Level Documents:

There are no order-level documents.

END OF REPORT



**GREENVILLE
HEALTH SYSTEM**

PHYSIATRY-CROSS CREEK 111

111 Doctors Drive

Greenville SC 29605-5608

Phone: 864-797-7100

Fax: 864-797-7105

Paulino-Bautista, Samuel De Jesus

MRN: [REDACTED]
Description: [REDACTED] year old male

Progress Notes Encounter Date: 6/19/2017

Jyoti K Math, MD

Physical Medicine & Rehabilitation

Subjective:

Subjective

Patient ID: Samuel De Jesus Paulino-Bautista is a [REDACTED] y.o. male

Chief Complaint

Patient presents with

- Lower Back - follow-up

HPI:

HPI Comments: OLD HISTORY:

1. Referring provider Dr. McHenry. Back pain with radiculopathy status post right L3-L4 microdiscectomy on July 30, 2015. Continues to have persistent chronic right leg radicular pain. MRI in March 2017. Not a surgical candidate as per McHenry.

Interventions: failed PT and anti-inflammatory medications. Status post right L4 transforaminal epidural steroid injection on August 2, 2016 with only 10% improvement.

The patient was seen in the presence of a Spanish video interpreter. Patient and his girlfriend tell me that he continues to have persistent back pain and right lower extremity pain. Pain level without medications 10 with medications. 5. There is throbbing numbness constant ongoing pain. The clinical progression has not changed. It is worse with walking and standing as well as prolonged sitting and relieved with pain medication.

He has not been taken gabapentin for a while. Currently, he has been taking Cymbalta given by psychologist at New Horizon and recently has been evaluated by Dr. McHenry. Repeat MRI of lumbar spine was performed in March 2017 did not show any new herniation. Dr. McHenry has not recommended surgery.

Pain Assessment

Pain Assessment: 0-10

Pain Score: 7-severe (5 with meds, 10 without meds)

Pain Location: Back (goes down right leg)

Pain Orientation: Lower

Pain Descriptors: Throbbing, Numbness

Pain Frequency: Constant/continuous

Pain Onset: Ongoing

Clinical Progression: Not changed

Aggravating Factors: Walking, Standing (sitting)
 Result of Injury: Yes
 Work-Related Injury: Yes
 Patient's Stated Pain Goal: No pain
 Pain Intervention(s): Medication (See MAR)

ROS:

Review of Systems

No progressive weakness, change in bowel or bladder habits, fever or unexplained weight loss.
 Other review of systems are negative.

Objective:

Objective

BP 150/91 mmHg | Pulse 113 | Ht 1.727 m (5' 8") | Wt 76.658 kg (169 lb) | BMI 25.70 kg/m2 |
 SpO2 99%

Physical Exam

PHYSICAL EXAM

Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished. No distress.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Pupils are equal, round, and reactive to light.

Cardiovascular:

No peripheral edema or varicose veins

Pulmonary/Chest: No respiratory distress.

Abdominal: Soft.

Musculoskeletal: He exhibits tenderness. He exhibits no edema.

Neurological: He is alert and oriented to person, place, and time.

Skin: Skin is warm and dry. No rash noted. No erythema.

Psychiatric: He has normal mood and affect. His behavior is normal.

Nursing note and vitals reviewed.

Ortho Exam

He walks with a cane and is able to transfer independently. He is in mild to moderate discomfort. Strength in bilateral lower extremity is 5 out of 5. I see nonphysiological shaking in his right lower extremity. His gait is slightly antalgic.

ASSESSMENT/PLAN:

1. Lumbar radiculopathy, chronic. I reviewed Dr. McHenry's notes. We will restart gabapentin. I will obtain functional capacity evaluation. Flexeril prescription has been written. He will take it as needed. Side effects verified with patient
2. Herniated nucleus pulposus, L3-4 right status post surgery persistent symptoms, we will keep him out of work until we get the functional capacity evaluation.

3. The patient was advised to continue all other medications as prescribed by other treating physicians/providers.
Please note that some or all of this record was generated using voice recognition software. If there are any questions about the content of this document, please contact the author as some errors in transcription may have occurred JM/mbm

No orders of the defined types were placed in this encounter.

Office Visit on 6/19/2017



**GREENVILLE
HEALTH SYSTEM**

PHYSIATRY-CROSS CREEK 111
111 Doctors Drive
Greenville SC 29605-5608
Phone: 864-797-7100
Fax: 864-797-7105

Paulino-Bautista, Samuel De Jesus

MRN: [REDACTED]
Description: [REDACTED] year old male

Progress Notes Encounter Date: 8/2/2017

Jyoti Kiran Math, MD

Physical Medicine & Rehabilitation

Subjective:

Subjective

Patient ID: Samuel De Jesus Paulino-Bautista is a [REDACTED] y.o. male

Chief Complaint

Patient presents with:

- Lower Back - follow-up

HPI:

HPI Comments: OLD HISTORY:

1. Referring provider Dr. McHenry. Back pain with radiculopathy status post right L3-L4 microdiscectomy on July 30, 2015. Continues to have persistent chronic right leg radicular pain. MRI in March 2017. Not a surgical candidate as per McHenry. Interventions: failed PT and anti-inflammatory medications. Status post right L4 transforaminal epidural steroid injection on August 2, 2016 with only 10% improvement. Patient returns today for follow-up. He was seen in the presence of Spanish interpreter. Patient continues to have a back pain and radicular symptoms. Pain level without medication is 6. He describes this pain as a tightness, numbness, aching pain constant, ongoing, the clinical progression has not changed worse with prolonged sitting and walking relieves with a medication he has been taking Flexeril and gabapentin, which helps. No side effects from the medication. The wife reports that the gabapentin is helping. He has not received the functional capacity evaluation yet.

Pain Assessment

Pain Assessment: 0-10

Pain Score: 6-moderate

Pain Location: Back

Pain Orientation: Lower

Pain Descriptors: Tightness, Numbness, Aching

Pain Frequency: Constant/continuous

Pain Onset: Ongoing

Clinical Progression: Not changed

Aggravating Factors: Activity, Prolonged Sitting, Walking

Pain Limitations: General Activity
 Result of Injury: No
 Work-Related Injury: No
 Patient's Stated Pain Goal: No pain
 Pain Intervention(s): Medication (See MAR)

ROS:
 Review of Systems

No progressive weakness, change in bowel or bladder habits, fever or unexplained weight loss.
 Other review of systems are negative.

Objective:

Objective

BP 126/83 mmHg | Pulse 97 | Resp 17 | Ht 1.727 m (5' 8") | Wt 76.658 kg (169 lb) | BMI 25.70 kg/m² | SpO₂ 99%

Physical Exam

PHYSICAL EXAM

Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished. No distress.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Pupils are equal, round, and reactive to light.

Cardiovascular:

No peripheral edema or varicose veins

Pulmonary/Chest: No respiratory distress.

Abdominal: Soft.

Musculoskeletal: He exhibits tenderness. He exhibits no edema.

Neurological: He is alert and oriented to person, place, and time.

Skin: Skin is warm and dry. No rash noted. No erythema.

Psychiatric: He has normal mood and affect. His behavior is normal.

Nursing note and vitals reviewed.

Ortho Exam

He ambulates with a cane with antalgic gait. Strength in lower extremities in functional range.
 Lumbar range of motion causes pain

Lab Results

Component	Value	Date
MORPHINE	Neg	11/16/2015
OXYMORPHONE	Neg	11/16/2015
HYDROMORPH	Neg	11/16/2015
CODEINE	Neg	11/16/2015
OXYCODONE	Neg	11/16/2015
NOROXYCO	Neg	11/16/2015
HYDROCO	Neg	11/16/2015

HYDROCO	Neg	11/16/2015
IABUR	Neg	11/16/2015
INE	Neg	11/16/2015
ES	Neg	11/16/2015
OURQL	Neg	11/16/2015
ITURATES	Neg	11/16/2015
ISCRNUR	Neg	11/16/2015
/CLIC	Neg	11/16/2015
ANYLUR	Neg	11/16/2015
IADOLUR	5800	11/16/2015

Reference range: <100

Unit: ng/mL

*

IADOLUR	11/16/2015
---------	------------

(NOTE)

Test Performed by Quest, Chantilly,
 Quest Diagnostics Nichols Institute,
 14225 Newbrook Drive, Chantilly, VA 20151
 Patrick W Mason, M.D., Ph.D., Director of Laboratories
 (703) 802-6900, CLIA 49D0221801

ENORPUR	NEGATIVE	11/16/2015
---------	----------	------------

Reference range: <2

Unit: ng/mL

UPRENUR	NEGATIVE	11/16/2015
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Reference range: <2

Unit: ng/mL

UPRENUR	11/16/2015
---------	------------

(NOTE)

Test Performed by Quest, Chantilly,
 Quest Diagnostics Nichols Institute,
 14225 Newbrook Drive, Chantilly, VA 20151
 Patrick W Mason, M.D., Ph.D., Director of Laboratories
 (703) 802-6900, CLIA 49D0221801

Assessment/Plan:

Assessment

neuropathic radiculopathy, chronic. We will refill gabapentin and Flexeril
 herniated nucleus pulposus, L3-4 right. We will order a functional capacity evaluation. He
 stay out of work until he gets the functional capacity evaluation

Types of the defined types were placed in this encounter.

NORHYDROCO	Neg	11/16/2015
CANNABUR	Neg	11/16/2015
COCAINE	Neg	11/16/2015
AMINES	Neg	11/16/2015
BENZOURQL	Neg	11/16/2015
BARBITURATES	Neg	11/16/2015
METHSCRNUR	Neg	11/16/2015
TRICYCLIC	Neg	11/16/2015
FENTANYLUR	Neg	11/16/2015
TRAMADOLUR	5800	11/16/2015

Reference range: <100
Unit: ng/mL

TRAMADOLUR		11/16/2015
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(NOTE)

Test Performed by Quest, Chantilly,
Quest Diagnostics Nichols Institute,
14225 Newbrook Drive, Chantilly, VA 20151
Patrick W Mason, M.D., Ph.D., Director of Laboratories
(703) 802-6900, CLIA 49D0221801

BUPRENORPUR	NEGATIVE	11/16/2015
	Reference range: <2	
	Unit: ng/mL	
NORBUPRENUR	NEGATIVE	11/16/2015
	Reference range: <2	
	Unit: ng/mL	
NORBUPRENUR		11/16/2015

(NOTE)

Test Performed by Quest, Chantilly,
Quest Diagnostics Nichols Institute,
14225 Newbrook Drive, Chantilly, VA 20151
Patrick W Mason, M.D., Ph.D., Director of Laboratories
(703) 802-6900, CLIA 49D0221801

Assessment/Plan:

Assessment

1. Lumbar radiculopathy, chronic . We will refill gabapentin and Flexeril
2. Herniated nucleus pulposus, L3-4 right . We will order a functional capacity evaluation. He will stay out of work until he gets the functional capacity evaluation

No orders of the defined types were placed in this encounter.

Office Visit on 8/2/2017

**GARCIA
LAW LLC**

GREENVILLE, SOUTH CAROLINA

August 14, 2017

VIA US MAIL and FAX

Dr. Jyoti Kishan Math
Interventional Pain Management Assoc.
21 Brendar Way
Greenville, SC 29615
Fax: (864) 822-5035

Re: Patient - Samuel Paulino
D.O.B. - [REDACTED]

Dr. Math:

As you are likely already aware, I represent Mr. Samuel Paulino in his claim for damages sustained as a result of a work-related injury to the spine occurring on or about February 7, 2015. This matter was recently litigated and found to be compensable by the South Carolina Workers' Compensation Commission. Because Mr. Paulino's claim was initially denied by the employer and carrier, Claimant's treatment process was without the direction and organization that one might typically see in an admitted claim. At this point, there seems to be confusion regarding whether Mr. Paulino has achieved maximum medical improvement and/or whether additional treatment and/or evaluations are necessary for him to achieve that goal. In an effort to elicit your clear opinion regarding whether the Claimant has achieved maximum medical improvement and whether there are recommendations for further evaluation/treatment, I am asking you to respond to this questionnaire.

To lend clarity to the issue of whether there is a causal relationship between the work incident and alleged injury(ies) to the spine, I would appreciate your brief responses to the several questions below. Of course, if there is a fee for this service, please notify our office at once so that we may send payment immediately. In your opinion, and to a reasonable degree of medical certainty, please respond to the following:

1. In your opinion, has the patient Mr. Paulino, achieved maximum medical improvement?

NO

SEP-13-2017 WED 04:24 PM

Garcia Law Firm LLC

FAX No. 864 271 7336

P. 003

2.

If your opinion is such that Mr. Paulino has not achieved MMI, please state what treatment and/or evaluations you believe will be necessary for him to achieve that goal. (If your opinion is such that Mr. Paulino has achieved MMI, please mark as "N/A")

May benefit with Interventional R & F

Patient needs a functional Capacity exam prior to determining MMI rating.

Small

Iyoti K. Math M.D.

I look forward to receiving your response. Please do not hesitate to contact us with any questions or concerns. You and your staff are very much appreciated.

Sincerely,

Garcia Law, LLC



Stephen N. Garcia
Attorney for Samuel Paulino

SNG/jrm



**GREENVILLE
HEALTH SYSTEM**

Physiatry-Cross Creek 111
111 Doctors Drive
Greenville SC 29605-5608
Phone: 864-797-7100
Fax: 864-797-7105

Paulino-Bautista, Samuel De Jesus

MRN: [REDACTED]
Description: [REDACTED] year old male

Office Visit 12/6/2017
Physiatry-Cross Creek 111

Provider: Jyoti Kiran Math, MD (Physical Medicine & Rehabilitation)
Primary diagnosis: Encounter for therapeutic drug monitoring
Reason for Visit: MMI RATING

Progress Notes

Jyoti Kiran Math, MD (Physician) - Physical Medicine & Rehabilitation

Expand All Collapse All

Subjective:

Subjective

Patient ID: Samuel De Jesus Paulino-Bautista is a [REDACTED] y.o. male

Chief Complaint
Patient presents with
• MMI RATING

HPI:

OLD HISTORY:

1. Referring provider Dr. McHenry. Back pain with radiculopathy status post right L3-L4 microdiscectomy on July 30, 2015. Continues to have persistent chronic right leg radicular pain. MRI in March 2017. Not a surgical candidate as per McHenry. Interventions: failed PT and anti-inflammatory medications. Status post right L4 transforaminal epidural steroid injection on August 2, 2016 with only 10% improvement

ORT- 1

Patient was seen in the presence of Spanish video interpreter
Patient had a functional capacity evaluation on November 20, 2017. His job description is cleaning and maintenance patient has not worked since February 2015 patient reports that he tried his best during the FCE, but the pain aggravated after the FCE was completed for next couple of days is afraid that he cannot go back to work with those restrictions as per FCE report. Patient did not demonstrate high pain focus during activities as per FCE his Level of medium work duty restriction with no lifting more than 45 pounds from floor to waist occasional lift 50 pounds and frequent lift capacity 15 pounds.
Patient reports persistent pain in right lower extremity in L5 distribution. He reports that his pain is activity limiting. He feels that his pain is not adequately controlled. Patient was concerned that he is not able to participate in his daily activities due to the pain. Considering the duration of the pain. Most likely he will have chronic pain issues. When I discussed this with him, He and his wife became very tearful and emotional

Pain Assessment

Pain Assessment: 0-10

Pain Score: 6-moderate
 Pain Location: Back
 Pain Orientation: Lower
 Aggravating Factors: Work
 Pain Limitations: General Activity
 Result of Injury: Yes
 Work-Related Injury: Yes
 Patient's Stated Pain Goal: No pain
 Pain Intervention(s): Medication (See MAR)

ROS:
 Review of Systems

No progressive weakness, change in bowel or bladder habits, fever or unexplained weight loss.
 Other review of systems are negative.

Objective:

Objective

BP (!) 141/93 | Pulse (!) 123 | Resp 17 | Wt 72.6 kg (160 lb) | BMI 24.33 kg/m²

Physical Exam

PHYSICAL EXAM

Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished. No distress.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Pupils are equal, round, and reactive to light.

Cardiovascular:

No peripheral edema or varicose veins

Pulmonary/Chest: No respiratory distress.

Abdominal: Soft.

Musculoskeletal: He exhibits tenderness. He exhibits no edema.

Neurological: He is alert and oriented to person, place, and time.

Skin: Skin is warm and dry. No rash noted. No erythema.

Psychiatric: He has normal mood and affect. His behavior is normal.

Nursing note and vitals reviewed.

Ortho Exam

He ambulates with the cane. He has a decreased stance and right lower extremity
 Lumbar flexion is up to 40-50° lumbar extension is 5° causes severe pain. Tenderness over right
 lower lumbar paraspinal muscles

No atrophy of the lower extremity musculature noted. Reflexes 1+ at bilateral knee symmetrically
 absent at ankle. Plantars are downgoing. No clonus. Straight leg test causes pain at the back of
 the knee. Strength is 5 out of 5 except right ankle dorsiflexion is 4+ out of 5. Is able to stand on his
 toes and on his heels slightly impaired sensation on the lateral border of the right foot

Lab Results

Component	Value	Date
MORPHINE	Neg	11/16/2015
OXYMORPHONE	Neg	11/16/2015
HYDROMORPH	Neg	11/16/2015
CODEINE	Neg	11/16/2015
OXYCODONE	Neg	11/16/2015
NOROXYCO	Neg	11/16/2015
HYDROCO	Neg	11/16/2015
NORHYDROCO	Neg	11/16/2015
FENTANYLUR	Neg	11/16/2015
TRAMADOLUR	(A)	11/16/2015
This drug class detected by initial screen. Interference is possible. See results of confirmatory test.		
TRAMADOLUR	5800	11/16/2015
	Reference range: <100	
	Unit: ng/mL	
	(H)	
TRAMADOLUR		11/16/2015

(NOTE)

Test Performed by Quest, Chantilly,
 Quest Diagnostics Nichols Institute,
 14225 Newbrook Drive, Chantilly, VA 20151
 Patrick W Mason, M.D., Ph.D., Director of Laboratories
 (703) 802-6900, CLIA 49D0221801

BUPRENORPUR	NEGATIVE	11/16/2015
	Reference range: <2	
	Unit: ng/mL	
NORBUPRENUR	NEGATIVE	11/16/2015
	Reference range: <2	
	Unit: ng/mL	
NORBUPRENUR		11/16/2015

(NOTE)

Test Performed by Quest, Chantilly,
 Quest Diagnostics Nichols Institute,
 14225 Newbrook Drive, Chantilly, VA 20151
 Patrick W Mason, M.D., Ph.D., Director of Laboratories
 (703) 802-6900, CLIA 49D0221801

Assessment/Plan:**Assessment**

1. Herniated nucleus pulposus, L3-4 right . I reviewed the functional capacity evaluation on his capable of medium work duty restriction but, as patient reports that his pain got aggravated after the FCE and he has not worked since 2015. We're going to start work conditioning program. I do not recommend returning to work without proper conditioning. I do believe that his symptoms are due to work-related injury
Today, I'm going to place him at MMI with impairment rating 12% as per AMA guidelines 6th edition
(Page 570 C DX is class II , FX 3 PEx 1 clinical study not used. (3-2)+(1-2)=0)
He will require chronic pain management in the form of pain medication. Neuropathic medication, muscle relaxants. Interventions, like epidural steroid injection. He may be also candidate for spinal cord stim P for his chronic right radiculopathy
2. Lumbar radiculopathy, chronic . We are going to get the UDS and restart him on tramadol I have refilled, gabapentin and Flexeril

No orders of the defined types were placed in this encounter.

Instructions

After Visit Summary (Printed 12/6/2017)

Additional Documentation

Vitals: BP 141/93 (Abnormal) Pulse 123 (Abnormal) Resp 17 Wt 72.6 kg (160 lb)
BMI 24.33 kg/m² BSA 1.87 m² More Vitals

Flowsheets: Travel and Exposure Screening, Assessment, Custom Formula Data, Vitals Reassessment, SCRIPTS Check

Encounter Info: Billing Info, History, Allergies, Detailed Report

Media

Scan on 12/6/2017 2:19 PM by Nancy Barrett : UMR 2017.12.06 CONTROLLED SUBSTANCE POLICY
Scan on 12/6/2017 2:21 PM by Nancy Barrett : UMR 2017.11.20 FCE EVAL

Chart Review Routing History

No encounter routing history is on file

Orders Placed

Urine Drug Screen 10 with Confirmations
Amb Referral to Physical Therapy Authorized

Medication Changes

As of 12/6/2017 9:09 AM

	Refills	Start Date	End Date
Added: traMADol (ULTRAM) 50 mg tablet	0	12/6/2017	
Take 1 tablet (50 mg) by mouth every 12 (twelve) hours. - Oral			

Visit Diagnoses

Encounter for therapeutic drug monitoring Z51.81
 Herniated nucleus pulposus, L3-4 right M51.26
 Lumbar radiculopathy, chronic M54.16
 Drug therapy Z79.899

Allergies as of 12/6/2017

Reviewed On: 12/6/2017 By: Jyoti Kiran Math, MD

No Known Allergies

Medical History

Diagnosis	Date	Comment	Source
Back pain			Provider
Back stiffness	10/1/2015		Provider
Difficulty walking	10/1/2015		Provider
Hypertension			Provider
Leg pain, right			Provider
Low back pain			Provider
Lumbosacral disc disease			Provider
Muscle weakness	9/3/2015		Provider
Pain of back and right lower extremity	9/3/2015		Provider
S/P lumbar microdiscectomy	10/1/2015		Provider

Surgical History

Procedure	Laterality	Date	Comment	Source
MICRODISCECTOMY LUMBAR		07.30.2015	Dr. Timothy Mchenry	Provider

Family History

Relation	Problem	Comments
Mother (Alive)	Diabetes Hypertension	
Father (Alive)	Diabetes Hypertension	
Daughter		
Son		

Tobacco Use

Never smoked or used smokeless tobacco.

Alcohol Use

No.

Drug Use

No.

Sexual Activity

Sexually active; Female partners; Birth Control/Protection: None.

Encounter Coverage and Financial Information

Click to view encounter coverage and financials including charges and LOS.

Physiatry-Cross Creek 111
111 Doctors Drive
Greenville SC 29605-5608
Phone: 864-797-7100
Fax: 864-797-7105

Amb Referral to Physical Therapy

Patient: Samuel De Jesus Paulino-Bautista		MRN: [REDACTED]	
[REDACTED]		DOB: [REDACTED]	
[REDACTED]		SSN: [REDACTED]	
[REDACTED]		Sex: M	

INSURANCE	PAYOR	PLAN	GROUP #	SUBSCRIBER ID
Primary:				

Referral Order

To Provider	From Provider
Ati Physical Therapy 864-797-7320	MATH, JYOTI KIRAN 111 Doctors Drive Greenville SC 29605-5608 Phone: 864-797-7100 Fax: 864-797-7105

Referral Order Information:

# Visits: 1	Referral Type: Physical Therapy [AE1]
Urgency: Routine	Referral Reason: Specialty Services Required
Start Date: Dec 6, 2017	End Date: To be determined by Insurer

Diagnosis: Herniated nucleus pulposus, L3-4 right (M51.26) Lumbar radiculopathy, chronic (M54.16) Date: Dec 6, 2017 Order Details:

Workers Comp - Work Conditioning

Pre-Auth # _____

This order has been electronically signed by: MATH, JYOTI KIRAN Dec 6, 2017 9:09 AM

To the patient: Please allow 48 hours for ATI PHYSICAL THERAPY to reach out to you. If you have not heard from ATI PHYSICAL THERAPY within 48 hours, please feel free to reach out to them to schedule your appointment.

To the Recipient of this Referral: This document serves as a request of services and does not constitute insurance authorization or approval of services. To determine eligibility, please contact the members insurance carrier to verify and review coverage. If you have medical questions regarding this request for

services, please contact Psychiatry-Cross Creek 111 at 864-797-7100 between the hours of 8:00am - 5:00pm (Mon-Fri).

NOV-27-2017 MON 01:48 PM

Garcia Law Firm LLC

FAX No. 864 271 7336

P. 002



November 27, 2017

VIA US MAIL and FAX

Dr. Jyoti Kiran Math
Interventional Pain Management Assoc.
21 Brendan Way
Greenville, SC 29615
Fax: (864) 522-5035

Re: Patient - Samuel Paulino
D.O.B. [REDACTED]

Dr. Math:

As you are likely already aware, I represent Mr. Samuel Paulino in his claim for damages sustained as a result of a work-related injury to the spine occurring on or about February 7, 2015. This matter was recently litigated and found to be compensable by the South Carolina Workers' Compensation Commission. Because Mr. Paulino's claim was initially denied by the employer and carrier, Claimant's treatment process was without the direction and organization that one might typically see in an admitted claim. At this point, there seems to be confusion regarding whether Mr. Paulino has achieved maximum medical improvement and/or whether additional treatment and/or evaluations are necessary for him to achieve that goal. Your recent medical note indicated that you were recommending completion of a functional capacity evaluation. That FCE was performed and its results are attached hereto. In an effort to elicit your clear opinion regarding whether the Claimant has achieved maximum medical improvement and whether there are recommendations for further evaluation/treatment, I am asking you to respond to this questionnaire.

To lend clarity to the issue of whether there is a causal relationship between the work incident and alleged injury(ies) to the spine, I would appreciate your brief responses to the several questions below. Of course, if there is a fee for this service, please notify our office at once so that we may send payment immediately. In your opinion, and to a reasonable degree of medical certainty, please respond to the following:

1. Please state the diagnosis(es) associated with the injury(ies) for which you have provided recommendations and treatment for the above-referenced patient.

See form 14B

604 PETTIGRU STREET, GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE: (864) 271-7335 TOLL FREE: (866) 780-5777 FAX: (864) 271-7336
WWW.SCGARCIALAW.COM

NOV-27-2017 MON 01:48 PM

Garcia Law Firm LLC

FAX No. 864 271 7336

P. 033

2. In your opinion, has the patient, Mr. Paulino, achieved maximum medical improvement?

3. If your opinion is such that Mr. Paulino *has not* achieved MMI, please state what treatment and/or evaluations you believe will be necessary for him to achieve that goal. (If your opinion is such that Mr. Paulino *has* achieved MMI, please mark as "N/A".)

4. If Mr. Paulino *has* achieved MMI, please state your opinion as to his impairment rating as a result of the aforementioned work-related incident. (If your opinion is such that Mr. Paulino *has not* achieved MMI, please mark as "N/A".)

5. If Mr. Paulino *has* achieved MMI, please state your opinion as to his restrictions and/or limitations as a result of the aforementioned work-related incident. (If your opinion is such that Mr. Paulino *has not* achieved MMI, please mark as "N/A".)

6. If your opinion is such that Mr. Paulino *has* achieved MMI, please state what treatment you believe will be necessary for him to maintain his current level of function (continued pain management, physical therapy, etc.)(If your opinion is such that Mr. Paulino *has not* achieved MMI, please mark as "N/A".)

7. If your opinion is such that Mr. Paulino *has not* achieved MMI, please state what treatment you believe will be necessary for him to achieve that goal (i.e. therapy, surgery, etc.). (If your opinion is such that Mr. Paulino *has* achieved MMI, please mark as "N/A".)

Iyoti K. Math, M.D.

I look forward to receiving your response. Please do not hesitate to contact us with any questions or concerns. You and your staff are very much appreciated.

Sincerely,

Garcia Law, LLC



Stephen N. Garcia
Attorney for Samuel Paulino

SNG/jrm

South Carolina Workers' Compensation Commission
 1333 Main Street, Suite 500 • Post Office Box 1715
 Columbia, South Carolina 29202-1715
 (803) 737-5675
 www.wcc.sc.gov



Physician's Statement

Claimant's Name: Samuel Paulino - Bautista Employer's Name: _____
 Physician's Name: Mythi K. Math, MD Insurance Carrier: _____
 Practice/Clinic: Upstate Medical Rehabilitation SCWCC File No: _____
 Preparer's Name: _____ Phone: _____

The undersigned physician has been authorized to evaluate or treat this Claimant for his or her work injury or illness pursuant to South Carolina Code Sections 42-15-60, 42-15-60, 42-1-172, or 42-11-10.

Date of injury: 11/21/14 Date of first office visit: 11/13/15 Date of last office visit: 12/6/17

The medical opinions below are stated to a reasonable degree of medical certainty.

Diagnosis or nature of injury or illness: Lumbar HNP with RLE Radiculopathy

Body part(s) injured: Lumbar spine Body part(s) affected: _____

Date of maximum medical improvement: 12/6/17

Has the Claimant sustained permanent physical impairment as a result of the work injury? Yes ☐ No ☐

If so, the permanent physical impairment is: 12 % medical impairment to the L spine (injured body part).

If there is a permanent physical impairment to other body part(s) as a result of the work injury, please indicate below: _____ (additional body part injured or affected).

The impairment rating(s) above are based upon the following:

☒ The AMA's Guides to the Evaluation of Permanent Impairment 6th Edition; or
☐ Other medical treatise: _____
☐ Other: _____ or _____

Does the Claimant have permanent physical limitations as a result of the injury? Yes ☐ No ☐

If so, the permanent physical limitations are: Light work duty no lifting > 10lb needs work conditioning

Does the Claimant possess retained hardware as a result of the injury? Yes ☐ No ☐

If so, the retained hardware is: _____

Is there medical, surgical, hospital or other treatment that the Claimant needs as a result of the injury for an additional time that will tend to lessen the period of disability or maintain the current level of function? Yes ☐ No ☐

If so, the medical care and treatment that is needed is/are: chronic pain management, pain management, injection R, follow up office visits q. 4-6 wks, pain medications, injection R, spinal cord stimulator trial

*An indication or statement that future medical care "may be necessary" or "might be necessary" is not sufficient and will require further clarification.

I certify that I am a physician or other licensed healthcare provider, I have personally read and prepared this document, and the opinions reflected above are mine.

Signature

Treating or Evaluating Physician

12/6/17

Date

Physician's Statement

WCC Form #14B
 12/2016

14B

APA #6

PMH INJECTION CLINIC

PMH INJECTION CLINIC
175 Patewood Drive
Greenville SC 29616-3570

PAULINO-BAUTISTA, SAMUEL DE JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Acct #: 200000148750
Adm: 8/2/2016 Disch: 8/2/2016

Procedure Notes

No notes of this type exist for this encounter.

OR Op Notes

Op Note by Jyoti K Math, MD at 8/2/2016 3:44 PM

Procedures: Transforaminal Epidural Steroid Injection:

Consent: Fully informed written consent was obtained.

Prep: The patient was placed in the prone position. The skin was prepped with povidone-iodine three times, and draped in a sterile fashion.

Timeout: Performed for correct injection site, identification and confirmation were performed using written consent and history and physical exam.

Procedure: With a 25-gauge, 1.5 inch needle, 1 % lidocaine was injected subcutaneously over the entry site. A Right-sided oblique fluoroscopic view was obtained, with the superior articular process of L5 aligned with the pedicle of L4. The tip of a 23-gauge 6-inch Short bevel-type spinal needle was advanced toward the 6 o'clock position of the L4 pedicle under intermittent fluoroscopic guidance. Confirmation of proper needle position was made with AP, oblique, and lateral fluoroscopic views. After negative aspiration for blood and cerebrospinal fluid, 1 ml of nonionic contrast agent was slowly injected. Fluoroscopic imaging revealed a clear outline of the L4 spinal nerve with proximal spread of agent through the neural foramen into the anterior epidural space. Digital subtraction used to exclude vascular placement. Next 1% lidocaine 1cc test dose injected. Pt denied paresthesia or weakness in BLE after 90 sec. Subsequently, 2 ml of injectate (1 ml Dexamethasone 10mg/ml and 1 ml preservative-free normal saline%) was administered. The needle was withdrawn. 8/2/2016 3:44 PM

Post Procedure: The patient tolerated the procedure well and there was no evidence of procedural complications. The patient was stable post-procedure and was given a post-procedure information sheet at discharge. The patient was able to ambulate upon discharge to home Discharge Orders: Observe patient in Recovery Room. Check vital signs and puncture site upon completion of procedure and after 15 minutes. May discharge to home once vital signs return within 20% of baseline and puncture site is negative for hematoma or bleeding.

Post procedural vital signs: Monitoring of pulse oximetry, heart rate, and blood pressure was done pre-procedure, during the procedure, and post-procedure.

Procedure Codes: 64483 Inj foramen epidural L/S, single level, 77003 FLUOROGUIDE FOR SPINE INJECT, Q9966 Omnipaque

Follow Up: Reason: Follow up with Dr. ___ as directed

All Results (08/02/16 - 08/02/16)

Lumbar Transforaminal Epidural [25510328]

Resulted: 08/02/16 1542, Result status: Final result

Performed: 08/02/16 1531 - 08/02/16 1534

Resulting lab: RIS PACS BROKER

Narrative:

Fluoro time used. No radiologist in attendance.

Specimen Collection

Generated by 13341 at 5/18/17 8:42 AM

Page 2

PMH INJECTION CLINIC
175 Patewood Drive
Greenville SC 29615-3570

PAULINO-BAUTISTA, SAMUEL DE JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Acct #: 200000148750
Adm: 8/2/2016 Disch: 8/2/2016

Patient Demographics

Name	Paulino-Bautista, Samuel De Jesus	SSN	xxx-xx-5127	Sex	Male	Birth Date	[REDACTED] (36 yrs)
Address	[REDACTED] 3024	Phone	[REDACTED]	E-Mail	[REDACTED]	Employer	UNEMPLOYED
County	GREENVILLE	Race	Hispanic	Occupation		Emp Status	Not Employed
Reg Status	Verified	PCP	Mary K Duran, MD864-560-9507	Date Last Verified	04/12/17		
HAR	200000148750	Admission Date	08/02/16	Discharge Date	08/02/16	Admitting Provider	
Marital Status	Married						
Emergency Contact 1	Jenny Nunez (Spouse)	Emergency Contact 2	Paula Acosta (Relative)				

Admission Information - Patient Record Only

Arrival Date/Time:	None	Admit Date/Time:	08/02/2016 3:09 PM	IP Adm.	None
Admission Type:	Elective	Point of Origin:	Physician Or Clinic Office	Date/Time:	None
Means of Arrival:	None	Primary Service:	None	Admit Category:	None
Transfer Source:	None	Service Area:	Greenville Health System	Secondary Service:	N/A
Admit Provider:	None	Attending Provider:	Jyoti K Math, MD	Unit:	Pmh Injection Clinic
				Referring Provider:	Jyoti K Math, MD

Discharge Summary

No notes of this type exist for this encounter.

ED Notes

No notes of this type exist for this encounter.

Final Diagnoses (ICD-10-CM)

Princip	Code	Name	POA	CC	HAC	Affects DRG
[P]	M54.16	Radiculopathy, lumbar region				

Discharge Information - Patient Record Only

Discharge Date/Time	Discharge Disposition	Discharge Destination	Discharge Provider	Unit
08/02/2016 11:59 PM	Home Or Self Care	None	None	Pmh Injection Clinic

History & Physicals

No notes of this type exist for this encounter.

PMH INJECTION CLINIC
175 Patewood Drive
Greenville SC 29615-3570

PAULINO-BAUTISTA, SAMUEL DE JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Acct #: 200000148750
Adm: 8/2/2016 Disch: 8/2/2016

All Results (08/02/16 - 08/02/16) (continued)

Resulted: 08/02/16 1542, Result status: Final
result

Lumbar Transforaminal Epidural [26510328] (continued)

Type	Source	Collected On
------	--------	--------------

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
105003 - RIS BROKER	RIS PACS BROKER	Unknown	Unknown	07/22/14 1821 - Present

All Orders and Results (08/02/16 - 08/02/16)

Post Procedure - Vital Signs upon completion of procedure and 15 minutes post procedure

Electronically signed by: Jyoti K Math, MD on 08/02/16 1531 Status: Discontinued
Ordering user: Jyoti K Math, MD 08/02/16 1531 Ordering provider: Jyoti K Math, MD
Discontinued by: Automatic Discharge Provider 08/03/16
0411 [Patient Discharged]

Post Procedure - Check puncture site upon completion of procedure and 15 minutes after procedure

Electronically signed by: Jyoti K Math, MD on 08/02/16 1531 Status: Discontinued
Ordering user: Jyoti K Math, MD 08/02/16 1531 Ordering provider: Jyoti K Math, MD
Discontinued by: Automatic Discharge Provider 08/03/16
0411 [Patient Discharged]

Post Procedure - Discharge instructions and provide education for specific procedure performed

Electronically signed by: Jyoti K Math, MD on 08/02/16 1531 Status: Discontinued
Ordering user: Jyoti K Math, MD 08/02/16 1531 Ordering provider: Jyoti K Math, MD
Discontinued by: Automatic Discharge Provider 08/03/16
0411 [Patient Discharged]

sodium bicarbonate injection 50 mEq

Electronically signed by: Heather W Travis, RT on 08/02/16 1535 Status: Completed
Ordering user: Heather W Travis, RT 08/02/16 1535 Ordering provider: Jyoti K Math, MD

dexamethasone (PF) (DECADRON) 10 mg/mL injection 10 mg

Electronically signed by: Heather W Travis, RT on 08/02/16 1535 Status: Completed
Ordering user: Heather W Travis, RT 08/02/16 1535 Ordering provider: Jyoti K Math, MD

iohexol (OMNIPAQUE) 300 mg iodine/mL injection 50 mL

Electronically signed by: Heather W Travis, RT on 08/02/16 1535 Status: Completed
Ordering user: Heather W Travis, RT 08/02/16 1535 Ordering provider: Jyoti K Math, MD

lidocaine (PF) (XYLOCAINE-MPF) 10 mg/mL (1 %) injection 10 mL

Electronically signed by: Heather W Travis, RT on 08/02/16 1535 Status: Completed
Ordering user: Heather W Travis, RT 08/02/16 1535 Ordering provider: Jyoti K Math, MD

Inpatient Consult to Pharmacy for Discharge Med Rec

Electronically signed by: Jyoti K Math, MD on 08/02/16 1531 Status: Discontinued
Ordering user: Jyoti K Math, MD 08/02/16 1531 Ordering provider: Jyoti K Math, MD
Discontinued by: Automatic Discharge Provider 08/03/16
0411 [Patient Discharged]

Discharge patient

Generated by 13341 at 5/18/17 8:42 AM

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PMH INJECTION CLINIC
175 Patewood Drive
Greenville SC 29615-3570

PAULINO-BAUTISTA, SAMUEL DE JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Acct #: 200000148750
Adm: 8/2/2016 Disch: 8/2/2016

All Orders and Results (08/02/16 - 08/02/16) (continued)

Discharge patient (continued)

Electronically signed by: Jyoti K Math, MD on 08/02/16 1531 Status: Discontinued
Ordering user: Jyoti K Math, MD 08/02/16 1531 Ordering provider: Jyoti K Math, MD
Discontinued by: Automatic Discharge Provider 08/03/16
0411 [Patient Discharged]

Secretary to Review Follow-Up Orders

Electronically signed by: Jyoti K Math, MD on 08/02/16 1531 Status: Discontinued
Ordering user: Jyoti K Math, MD 08/02/16 1531 Ordering provider: Jyoti K Math, MD
Discontinued by: Automatic Discharge Provider 08/03/16
0411 [Patient Discharged]

Post Procedure - Discontinue IV

Electronically signed by: Jyoti K Math, MD on 08/02/16 1531 Status: Cancel Held
Ordering user: Jyoti K Math, MD 08/02/16 1531 Ordering provider: Jyoti K Math, MD
Canceled by: Automatic Discharge Provider 08/03/16
0411

Lumbar Transforaminal Epidural

Electronically signed by: Jyoti K Math, MD on 05/20/16 1134 Status: Completed
Ordering user: Jyoti K Math, MD 05/20/16 1134

Encounter-Level Documents - 08/02/2016:

Scan on 8/2/2016 (below)

PMH INJECTION CLINIC
175 Patwood Drive
Greenville SC 29615-3570

PAULINO-BAUTISTA, SAMUEL DE JESUS
MRN: [REDACTED]
DOB: [REDACTED] Sex: M
Acct #: 200000148750
Adm: 8/2/2016 Disch: 8/2/2016

Consent Form
- Internal
Consent



Consent/Registration
Greenville Health System

PAULINO-BAUTISTA, SAMUEL DE JESUS
DOB: [REDACTED]
MRN: [REDACTED]
Acct #: 200000148750
Adm Date: 8/2/2016
Disch Date: 8/2/2016

18750

ista

INFORMED CONSENT FOR OPERATION AND/OR PROCEDURE

INFORMED CONSENT FOR OPERATION/PROCEDURE

- | | |
|---|---|
| ☐ Greenville Memorial Medical Center | ☐ Patwood Outpatient Center |
| ☐ Oconee Creek Surgery Center | ☐ Oconee Memorial Hospital |
| ☐ PT Patwood Memorial Hospital | ☐ Hiram Memorial Hospital |
| ☐ North Greenville Hospital | ☐ Laurens County Memorial Hospital |
| ☐ OTHER (Specify): | ☐ Oconee Memorial Hospital |

Please read this document carefully and ask questions about anything you do not fully understand.

PROCEDURE

I consent to the following operation and/or procedure(s):

Lumbar Transforaminal
Epidural Steroid

to be performed by Dr. Jyoti Math

knowing that my doctor will have the main responsibility for my care specific to the operation(s) and/or procedure(s). I understand that doctors, who are fellows, residents, or other qualified first assistants, may be involved in my procedure under the supervision of the above doctor.

My doctor has explained to me my condition, the nature and purpose of each operation(s) and/or procedure(s), and the risks and types of complication(s) involved, the potential benefits and drawbacks, potential problems related to recovery, the likelihood of success, the possible results of non-treatment, and any reasonable options or alternatives. I have had the chance to ask questions about the planned operation(s) and/or procedure(s) and all my questions have been answered to my satisfaction. I have received no promises from anyone about the results that may be obtained from the operation and/or procedure. All operations and procedures involve risks. Routine risks include, but are not limited to, perforation and/or injury to nearby blood vessels, nerves and/or organs, infection, blood clots. Other risks may include paralysis and/or death or _____

I understand that the information I have received about risks may not be fully complete and there may be other, less common risks. no

Initials: A-P Date: 8/2/16 Time: 15:00
Diabetic: no
Anticoagulant: no
Blood Pressure: no
Antibiotic: no
Pain/Stim: no
Vaccines: no

INFORMED CONSENT

101554 (4/16)
CONSENT/REGISTRATION

PAGE 1 OF 2

02/22/2016

02/22/2016 15:00 02/22/2016 15:00

APA #7

NEW HORIZON BEHAVIORAL HEALTH

Encounters and Procedures

Clinical Encounter Summaries

Encounter Date: 06/23/2017

Patient

Name

PAULINO BAUTISTA, SAMUEL [REDACTED] yo, M) ID# [REDACTED]

Appt. Date/Time 06/23/2017 09:45AM

DOB

Service Dept.

Behavioral Health - Faris Rd - GREENVILLE

Provider

LIVINGSTONE, JENNIFER LSW

Insurance

Med Primary: *SELF PAY*

Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details

Chief Complaint

Followup: Single major depressive episode, moderate
Followup: Generalized anxiety disorder

Patient's Pharmacies

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330, Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Medications not reviewed (last reviewed 02/01/2017)

amlODIPine 10 mg tablet

Take 1 tablet(s) every day by oral route.

12/21/16 entered

gabapentin 300 mg capsule

Take 1 capsule(s) 3 times a day by oral route.

12/21/16 entered

traMADol 50 mg tablet

Take 1 tablet(s) every 4 hours by oral route as needed.

12/21/16 entered

Vitamin D2

12/21/16 entered

Problems

Problems not reviewed (last reviewed 06/02/2017)

- Generalized anxiety disorder - Onset: 02/10/2017
- Single major depressive episode, moderate - Onset: 02/10/2017

Family History

Father

- Hypertensive disorder

Mother

- Hypertensive disorder
- Diabetes mellitus

Social History

Smoking Status: Never smoker

Non-smoker

Chewing tobacco: none

Alcohol intake: None

Are you currently employed?: N

Education: 4 Year College

Marital status: Divorced

Advance directive: N

Seat belts used routinely: Y

Sunscreen used routinely: N

Surgical History

- Removal of sperm duct(s)

Screening

Name	Score	Notes
PHQ-2/PHQ-9	11 (out of 27 for the PHQ-9)	
GAD-7	8 (out of 21)	

ROS

None recorded.

Physical Exam

None recorded.

Assessment / Plan

D (Discussion): client denies si/hi. talked to wife - she feels client much better and couples counseling not needed. client f/u with homework and sent wife flowers with card; says it went "excellently" with big smile. feels therapy has been very helpful - sees things differently now. not irritable anymore.

still some sx of depression and anxiety related to being told 10 days ago by surgeon that he will probably have to live with his back pain. wants to focus on moving forward. would like to find work he can do. interested in Voc Rehab info.

taking meds as prescribed, helpful.

R (Response): assessed for safety. reviewed homework. explored further tx goals. provided contact info for Vocational Rehab.

A (Assessment): client on time. good eye contact. used interpreter line. mood euthymic. occasionally tearful when recalling surgeon visit.

phq9 and gad7 reduced from initial assessment.

further tx goals unclear as client has improved and at this point just wants to find work he can do. will re-assess next visit.

P (Plan): client will call Voc Rehab and find out what they can offer.

Face to Face Time: 10am-1045am

1. Single major depressive episode, moderate
F32.1: Major depressive disorder, single episode, moderate

2. Generalized anxiety disorder
F41.1: Generalized anxiety disorder

Return to Office

- ♦ Livingstone, Jennifer LSW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 07/10/2017 at 09:45 AM

Encounter Sign-Off

Encounter signed-off by Livingstone, Jennifer LSW, 06/23/2017.

Encounter performed and documented by Livingstone, Jennifer LSW

Encounter reviewed & signed by Livingstone, Jennifer LSW on 06/23/2017 at 10:45am

Encounter Date: 06/02/2017

Patient

Name PAULINO BAUTISTA, SAMUEL (37yo, M) ID# [REDACTED] Appt. Date/Time 06/02/2017 08:00AM

DOB [REDACTED] Service Dept. Behavioral Health - Faris Rd - GREENVILLE

Provider LIVINGSTONE, JENNIFER LSW

Insurance Med Primary: *SELF PAY*
Med Cash: SLIDING FEE SCHEDULE - DISCOUNT
Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details

Chief Complaint

Followup: Single major depressive episode, moderate
Followup: Generalized anxiety disorder

Patient's Pharmacies

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330,
Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Medications not reviewed (last reviewed 02/01/2017)

amLODIPine 10 mg tablet

Take 1 tablet(s) every day by oral route.

12/21/16 entered

gabapentin 300 mg capsule

Take 1 capsule(s) 3 times a day by oral route.

12/21/16 entered

traMADol 50 mg tablet

Take 1 tablet(s) every 4 hours by oral route as needed.

12/21/16 entered

Vitamin D2

12/21/16 entered

Problems

Reviewed Problems

- Generalized anxiety disorder - Onset: 02/10/2017
- Single major depressive episode, moderate - Onset: 02/10/2017

Family History

Father - Hypertensive disorder
Mother - Hypertensive disorder
- Diabetes mellitus

Social History

Smoking Status: Never smoker
Non-smoker
Chewing tobacco: none
Alcohol Intake: None
Are you currently employed?: N
Education: 4 Year College
Marital status: Divorced
Advance directive: N
Seat belts used routinely: Y
Sunscreen used routinely: N

Surgical History

• Removal of sperm duct(s)

Screening

Name	Score	Notes
PHQ-2/PHQ-9	12 (out of 27 for the PHQ-9)	
GAD-7	10 (out of 21)	

ROS

None recorded.

Physical Exam

None recorded.

Assessment / Plan

D (Discussion): denies s/h. taking meds as prescribed; helpful. has occasional nausea but says getting used to it.

discusses values around relationship with wife. would like to be more caring, affectionate, improve communication. decides to either bring flowers home or her work as act of caring. considering couples counseling.

R (Response): assessed for safety. reviewed last session and tx goals. explored values around marriage and assisted client with brainstorming action steps he can take towards consistency with that value. discussed possible referral to GMHC for couples counseling with spanish-speaking counselor.

A (Assessment): client on time; delayed by check in process and no availability of interpreter; interpreter line had to be used for session. mood dysthymic; did not sleep last night. affect normal.

due to language barrier/use of interpreter line much time was spent clarifying/reviewing things.

P (Plan): client will either send wife flowers to her work or bring them home to her.

Face to Face Time: 8:18a-8:56am

1. Single major depressive episode, moderate

F32.1: Major depressive disorder, single episode, moderate

2. Generalized anxiety disorder

F41.1: Generalized anxiety disorder

Return to Office

- Livingstone, Jennifer USW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 06/23/2017 at 09:45 AM

Encounter Sign-Off

Encounter signed-off by Livingstone, Jennifer USW, 06/02/2017.

Encounter performed and documented by Livingstone, Jennifer USW

Encounter reviewed & signed by Livingstone, Jennifer USW on 06/02/2017 at 9:16am

Encounter Date: 05/09/2017

Patient

Name	PAULINO BAUTISTA, SAMUEL (37yo, M) ID# [REDACTED]	Appt. Date/Time	05/09/2017 10:30AM
DOB	[REDACTED]	Service Dept.	Behavioral Health - Faris Rd - GREENVILLE
Provider	LIVINGSTONE, JENNIFER USW		
Insurance	Med Primary: *SELF PAY* Med Cash: SLIDING FEE SCHEDULE - DISCOUNT Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details		

Chief Complaint

Followup: Generalized anxiety disorder
Followup: Single major depressive episode, moderate

Patient's Pharmacies

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330, Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Medications not reviewed (last reviewed 02/01/2017)

amLODIPine 10 mg tablet Take 1 tablet(s) every day by oral route.	12/21/16 entered
gabapentin 300 mg capsule Take 1 capsule(s) 3 times a day by oral route.	12/21/16 entered
traMADol 50 mg tablet	12/21/16 entered

Take 1 tablet(s) every 4 hours by oral route as needed.

Vitamin D2

12/21/16 entered

Problems

Reviewed Problems

- Generalized anxiety disorder - Onset: 02/10/2017
- Single major depressive episode, moderate - Onset: 02/10/2017

Family History

Father - Hypertensive disorder
 Mother - Hypertensive disorder
 - Diabetes mellitus

Social History

Smoking Status: Never smoker
 Non-smoker
 Chewing tobacco: none
 Alcohol intake: None
 Are you currently employed?: N
 Education: 4 Year College
 Marital status: Divorced
 Advance directive: N
 Seat belts used routinely: Y
 Sunscreen used routinely: N

Surgical History

- Removal of sperm duct(s)

Screening

Name	Score	Notes
PHQ-2/PHQ-9	12 (out of 27 for the PHQ-9)	
GAD-7	11 (out of 21)	

ROS

None recorded.

Physical Exam

None recorded.

Assessment / Plan

D (Discussion): denies si/hi. mother getting info about tx options for her illness. clt participates in tx plan. says therapy has been helpful. used to get easily irritated, isolate himself, and lash out. says now he expresses his feelings more, is slow to anger, and is more active.

R (Response): assessed for safety. collaborated on tx plan. sent tx plan to HIM for scanning. gave copy of tx plan.

A (Assessment): client on time. mood dysthymic. anxious about mother's illness. good eye contact. interpreter present. has made some progress in therapy.

P (Plan): return 3 weeks and pick back up on CBT work.

Face to Face Time: 1035am-11am

1. **Single major depressive episode, moderate**
 F32.1: Major depressive disorder, single episode, moderate

2. **Generalized anxiety disorder**
 F41.1: Generalized anxiety disorder

Return to Office

- Livingstone, Jennifer LSW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 06/02/2017 at 08:00 AM
- Livingstone, Jennifer LSW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 06/23/2017 at 09:00 AM

Encounter Sign-Off

Encounter signed-off by Livingstone, Jennifer LSW, 05/09/2017.

Encounter performed and documented by Livingstone, Jennifer LSW

Encounter reviewed & signed by Livingstone, Jennifer LSW on 05/09/2017 at 11:06am

Encounter Date: 05/05/2017

Patient

Name PAULINO BAUTISTA, SAMUEL (37yo, M) ID# [REDACTED] Appt. Date/Time 05/05/2017 03:30PM

DOB [REDACTED] Service Dept. Behavioral Health - Faris Rd - GREENVILLE

Provider LIVINGSTONE, JENNIFER LSW

Insurance Med Primary: *SELF PAY*

Med Cash: SLIDING FEE SCHEDULE - DISCOUNT

Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details

Chief Complaint

Followup: Generalized anxiety disorder
Followup: Single major depressive episode, moderate

Patient's Pharmacies

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330, Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Medications not reviewed (last reviewed 02/01/2017)

amLODIPine 10 mg tablet 12/21/16 entered
Take 1 tablet(s) every day by oral route.gabapentin 300 mg capsule 12/21/16 entered
Take 1 capsule(s) 3 times a day by oral route.traMADol 50 mg tablet 12/21/16 entered
Take 1 tablet(s) every 4 hours by oral route as needed.

Vitamin D2 12/21/16 entered

Problems

Problems not reviewed (last reviewed 03/13/2017)

- Generalized anxiety disorder - Onset: 02/10/2017
- Single major depressive episode, moderate - Onset: 02/10/2017

Family History

Father - Hypertensive disorder
Mother - Hypertensive disorder
- Diabetes mellitus

Social History

Smoking Status: Never smoker
Non-smoker
Chewing tobacco: none
Alcohol intake: None
Are you currently employed?: N
Education: 4 Year College
Marital status: Divorced
Advance directive: N
Seat belts used routinely: Y
Sunscreen used routinely: N

Surgical History

- Removal of sperm duct(s)

Screening

Name	Score	Notes
PHQ-2/PHQ-9	13 (out of 27 for the PHQ-9)	
GAD-7	13 (out of 21)	

ROS

None recorded.

Physical Exam

None recorded.

Assessment / Plan

D (Discussion): clt denies si. learned a few hours ago that mother's cancer has returned. used session time to process.

R (Response): assessed for safety. assisted client in processing recent news of mother's cancer. reviewed how client can be supportive to her and take care of himself. discussed need to do tx plan next session.

A (Assessment): client on time. mood anxious. crying. in extreme distress over just learning mother's cancer has returned. tx plan needs to be done however it was more clinically appropriate today to assist client in processing this news rather than doing tx plan. will do next session.

phq9 and gad7 up a few points.

continue to discern if there may be need for referral to spanish speaking counselor at GMHC.

P (Plan): return next week to do tx plan.

Face to Face Time: 340pm-415pm

1. Single major depressive episode, moderate

F32.1: Major depressive disorder, single episode, moderate

2. Generalized anxiety disorder

F41.1: Generalized anxiety disorder

Return to Office

- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 05/09/2017 at 10:30 AM

Encounter Sign-Off

Encounter signed-off by Livingstone, Jennifer LISW, 05/05/2017.

Encounter performed and documented by Livingstone, Jennifer LISW

Encounter reviewed & signed by Livingstone, Jennifer LISW on 05/05/2017 at 4:32pm

Encounter Date: 04/17/2017

Patient

Name PAULINO BAUTISTA, SAMUEL (36yo, F) ID# [REDACTED] **Appt. Date/Time** 04/17/2017 09:00AM

DOB [REDACTED] **Service Dept.** Behavioral Health - Faris Rd - GREENVILLE

Provider LIVINGSTONE, JENNIFER LISW

Insurance Med Primary: *SELF PAY*
Med Cash: SLIDING FEE SCHEDULE - DISCOUNT
Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details

Chief Complaint

Followup: Single major depressive episode, moderate
Followup: Generalized anxiety disorder

Patient's Pharmacies

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330, Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Medications not reviewed (last reviewed 02/01/2017)

amlODIPine 10 mg tablet 12/21/16 entered
Take 1 tablet(s) every day by oral route.

gabapentin 300 mg capsule 12/21/16 entered
Take 1 capsule(s) 3 times a day by oral route.

traMADol 50 mg tablet 12/21/16 entered
Take 1 tablet(s) every 4 hours by oral route as needed.

Vitamin D2 12/21/16 entered

Problems

Problems not reviewed (last reviewed 03/13/2017)

- Generalized anxiety disorder - Onset: 02/10/2017
- Single major depressive episode, moderate - Onset: 02/10/2017

Family History

Father - Hypertensive disorder
Mother - Hypertensive disorder
- Diabetes mellitus

Social History

Smoking Status: Never smoker
Non-smoker
Chewing tobacco: none
Alcohol intake: None
Are you currently employed?: N
Education: 4 Year College
Marital status: Divorced
Advance directive: N
Seat belts used routinely: Y
Sunscreen used routinely: N

Surgical History

- Removal of sperm duct(s)

Screening

Name	Score	Notes
PHQ-2/PHQ-9	12 (out of 27 for the PHQ-9)	
GAD-7	11 (out of 21)	

ROS

None recorded.

Physical Exam

None recorded.

Assessment / Plan

D (Discussion): client denies si/hi. reports neurosurgeon told him there is not much more they can do; he has been thinking about his life before he was injured, comparing it to now. however notes this is not helping him move closer to the life he wants.

says that it is important for him to attend his MD appts, take medications, go to physical therapy, and exercise. says these things are all goals that would help him recover his health, which ultimately will help him return to work and spend quality time with his family.

R (Response): assessed for safety. reviewed last session. reviewed difference between values and goals. explored workability of the thinking strategy of reviewing the past in helping him move closer to his values. explored the value of health. encouraged client to think of ways he can spend more quality time with his family.

A (Assessment): client on time. good eye contact. mood dysthymic. affect blunted. interpreter line used as interpreter not available.

unsure degree to which language barrier/use of interpreter line may be impacting effectiveness of therapy.

gad7 and phq9 down a few points from last session.

P (Plan): write/brainstorm ways he can spend more quality time with his family. return in 3 weeks.

Face to Face Time: 906am-951am

1. Single major depressive episode, moderate

F32.1: Major depressive disorder, single episode, moderate

2. Generalized anxiety disorder

F41.1: Generalized anxiety disorder

Return to Office

- Livingstone, Jennifer LSW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 05/05/2017 at 03:30 PM

Encounter Sign-Off

Encounter signed-off by Livingstone, Jennifer LSW, 04/17/2017.

Encounter performed and documented by Livingstone, Jennifer LSW

Encounter reviewed & signed by Livingstone, Jennifer LSW on 04/17/2017 at 10:01am

Encounter Date: 03/31/2017

Patient

Name

PAULINO BAUTISTA, SAMUEL (36yo,
F) ID# [REDACTED]

Appt. Date/Time 03/31/2017 08:00AM

DOB

Service Dept. Behavioral Health - Faris Rd -
GREENVILLE

Provider

LIVINGSTONE, JENNIFER LSW

Insurance

Med Primary: *SELF PAY*

Med Cash: SLIDING FEE SCHEDULE - DISCOUNT

Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details

Chief Complaint

Followup: Single major depressive episode, moderate

Followup: Generalized anxiety disorder

Patient's Pharmacies

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330, Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Medications not reviewed (last reviewed 02/01/2017)

amLODIPine 10 mg tablet

12/21/16 entered

Take 1 tablet(s) every day by oral route.

gabapentin 300 mg capsule

12/21/16 entered

Take 1 capsule(s) 3 times a day by oral route.

traMADol 50 mg tablet

12/21/16 entered

Take 1 tablet(s) every 4 hours by oral route as needed.

Vitamin D2

12/21/16 entered

Problems

Problems not reviewed (last reviewed 03/13/2017)

- Generalized anxiety disorder - Onset: 02/10/2017
- Single major depressive episode, moderate - Onset: 02/10/2017

Family History

Father - Hypertensive disorder
 Mother - Hypertensive disorder
 - Diabetes mellitus

Social History

Smoking Status: Never smoker
 Non-smoker
 Chewing tobacco: none
 Alcohol intake: None
 Are you currently employed?: N
 Education: 4 Year College
 Marital status: Divorced
 Advance directive: N
 Seat belts used routinely: Y
 Sunscreen used routinely: N

Surgical History

- Removal of sperm duct(s)

Screening

Name	Score	Notes
PHQ-2/PHQ-9	17 (out of 27 for the PHQ-9)	
GAD-7	13 (out of 21)	

ROS

None recorded.

Physical Exam

None recorded.

Assessment / Plan

D (Discussion): denies s/h. says therapy helping but still has hard time getting out some days. does not want to go to GMHC - happy here. discusses importance of value of family/hard work. participates in experiment raising right arm. agrees that he would probably feel less depressed if he was living according to his values. listens to explanation of value areas - top 3 for him right now are health, parenting, and marriage. wants to focus on health first.

R (Response): assessed for safety. provided information that at any time if client feels he would get more effective therapy with spanish speaking therapist we can always make referral to GMHC. discussed cycle of depression leading to less valued activity and increased depression and importance of breaking cycle. reviewed how our mind comes up with reasons we can't do things (i.e. i'm too depressed to go out) however facilitated experiment asking client to state "i can't raise my right arm" while also raising right arm to demonstrate how our feelings and thoughts don't actually control our hands and feet. reviewed 10 value areas and selected one client wants to work on. provided list of values and copy of work from today.

A (Assessment): client on time but delayed due to unusual check in process. good eye contact. used interpreter. mood slightly dysthymic but seems happy to be here and appreciative.

P (Plan): write about value of health - what would this look like? return 4/17

Face to Face Time: 815am-850am

1. Single major depressive episode, moderate
F32.1: Major depressive disorder, single episode, moderate
2. Generalized anxiety disorder
F41.1: Generalized anxiety disorder

Return to Office

- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Farls Rd - GREENVILLE on 04/17/2017 at 09:00 AM

Encounter Sign-Off

Encounter signed-off by Livingstone, Jennifer LISW, 03/31/2017.

Encounter performed and documented by Livingstone, Jennifer LISW

Encounter reviewed & signed by Livingstone, Jennifer LISW on 03/31/2017 at 9:59am

Encounter Date: 03/13/2017 (Last amended by Livingstone, Jennifer LISW on 03/13/2017 at 10:41am)

Patient

Name PAULINO BAUTISTA, SAMUEL (36yo, Appt. Date/Time 03/13/2017 09:00AM
F) ID# [REDACTED]
DOB [REDACTED] Service Dept. Behavioral Health - Farls Rd - GREENVILLE

Provider LIVINGSTONE, JENNIFER LISW

Insurance

Med Primary: *SELF PAY*

Med Cash: SLIDING FEE SCHEDULE - DISCOUNT

Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details

Chief Complaint

Followup: Single major depressive episode, moderate
Followup: Generalized anxiety disorder

Patient's Pharmacies

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330,
Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Medications not reviewed (last reviewed 02/01/2017)

amLODIPine 10 mg tablet 12/21/16 entered
Take 1 tablet(s) every day by oral route.

gabapentin 300 mg capsule 12/21/16 entered
Take 1 capsule(s) 3 times a day by oral route.

traMADol 50 mg tablet 12/21/16 entered
Take 1 tablet(s) every 4 hours by oral route as needed.

Vitamin D2 12/21/16 entered

Problems

Reviewed Problems

- Generalized anxiety disorder - Onset: 02/10/2017
- Single major depressive episode, moderate - Onset: 02/10/2017

Family History

Father - Hypertensive disorder
Mother - Hypertensive disorder
- Diabetes mellitus

Social History

Smoking Status: Never smoker
Are you currently employed?: N
Education: 4 Year College
Marital status: Divorced
Sexual orientation: Heterosexual
Alcohol intake: None
Chewing tobacco: none

Illicit drugs: denies
Seat belts used routinely: Y
Sunscreen used routinely: N
Advance directive: N
Non-smoker

Surgical History

- Removal of sperm duct(s)

Screening

None recorded.

ROS

None recorded.

Physical Exam

None recorded.

Assessment / Plan

D (Discussion): client denies s/h. gives feedback that therapy is going well - says that he feels much less irritable, his relationship with his wife is better, and his concentration has improved to the point where he is now taking an online english class.

listens to cognitive distortions - says he can relate to many of them particularly mind reading. says when someone doesn't text him back right away he will notice thinking they are mad at him.

phq9 and gad7 not done as frnt desk had no copies and printer not working.

R (Response): assessed for safety. obtained feedback about therapy sessions. reviewed last sessions. reviewed partial list of cognitive distortions - overgeneralization, all or nothing thinking, mental filter, discounting the positive, mind reading.

A (Assessment): client on time. good eye contact. mood euthymic. appears much better based on self report although unable to obtain phq9 and gad7 scores.

session late due to waiting for interpreter

P (Plan): client will return in two weeks and catch himself when he is having cognitive distortions particularly jumping to conclusions. will be moving to sessions every 2 weeks.

Face to Face Time: 915am-945am

1. Single major depressive episode, moderate
F32.1: Major depressive disorder, single episode, moderate

2. Generalized anxiety disorder
F41.1: Generalized anxiety disorder

Return to Office

- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 03/31/2017 at 08:00 AM

Amendment Sign-Off

Encounter signed-off by Livingstone, Jennifer LISW, 03/13/2017.

Encounter performed and documented by Livingstone, Jennifer LISW

Encounter reviewed & signed by Livingstone, Jennifer LISW on 03/13/2017 at 9:55am

Amendment closed by Livingstone, Jennifer LISW on 03/13/2017 at 10:41am

Encounter Date: 02/22/2017

Patient

Name	PAULINO BAUTISTA, SAMUEL (36yo, F) ID# [REDACTED]	Appt. Date/Time	02/22/2017 11:00AM
DOB	[REDACTED]	Service Dept.	Behavioral Health - Faris Rd - GREENVILLE
Provider	LIVINGSTONE, JENNIFER LISW		
Insurance	Med Primary: *SELF PAY* Med Cash: SUDING FEE SCHEDULE - DISCOUNT Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details		

Chief Complaint

Followup: Single major depressive episode, moderate

Followup: Generalized anxiety disorder

Patient's Pharmacies

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330, Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Medications not reviewed (last reviewed 02/01/2017)

amLODIPine 10 mg tablet

12/21/16 entered

Take 1 tablet(s) every day by oral route.

gabapentin 300 mg capsule

12/21/16 entered

Take 1 capsule(s) 3 times a day by oral route.

tramADol 50 mg tablet

12/21/16 entered

Take 1 tablet(s) every 4 hours by oral route as needed.

Vitamin D2

12/21/16 entered

Problems

Reviewed Problems

- Generalized anxiety disorder - Onset: 02/10/2017
- Single major depressive episode, moderate - Onset: 02/10/2017

Family History

Father - Hypertensive disorder
Mother - Hypertensive disorder
- Diabetes mellitus

Social History

Smoking Status: Never smoker
Are you currently employed?: N
Education: 4 Year College
Marital status: Divorced
Sexual orientation: Heterosexual
Alcohol intake: None
Chewing tobacco: none
Illicit drugs: denies
Seat belts used routinely: Y
Sunscreen used routinely: N
Advance directive: N
Non-smoker

Surgical History

- Removal of sperm duct(s)

Screening

Name	Score	Notes
PHQ-2/PHQ-9	17 (out of 27 for the PHQ-9)	
GAD-7	15 (out of 21)	

ROS

None recorded.

Physical Exam

None recorded.

Assessment / Plan

D (Discussion): clt denies sh/h. remembers last session. discusses recent situation where he had flat tire and could not change it due to his back problems. It was nighttime and family was in car. had to wait over an hour for

help, noted feeling anxious and afraid and also aggravated - noted thoughts such as "something bad might happen" and "i should be able to change the tire". rates believability of this thought at 90%. despite exploring evidence against this such as its harder to change a tire in the dark, kids were crying, and his medical problems prevent bending over - still believes at 90%. interested in cognitive distortion handout - says he has a way to translate to spanish.

R (Response): assessed for safety. review last session. review homework. discussed that feelings of anger often tied to "should" statements. rated believability of should statement. explored evidence for and against.

A (Assessment): client on time. spanish speaking with help of interpreter. mood dysthymic, affect tearful. has some trouble understanding some content so unsure how accurately pt understanding concept of CBT. has trouble needing to reach out for help/depend on others. appreciative of assistance.

will have to monitor whether language barrier, even with interpreter, will affect effectiveness of therapy

P (Plan): client to continue upsetting events journal.

Face to Face Time: 11am-11:45am

1. Generalized anxiety disorder

F41.1: Generalized anxiety disorder

2. Single major depressive episode, moderate

F32.1: Major depressive disorder, single episode, moderate

Return to Office

- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 03/13/2017 at 09:00 AM

Encounter Sign-Off

Encounter signed-off by Livingstone, Jennifer LISW, 02/22/2017.

Encounter performed and documented by Livingstone, Jennifer LISW

Encounter reviewed & signed by Livingstone, Jennifer LISW on 02/22/2017 at 4:06pm

Encounter Date: 02/17/2017

Patient

Name

PAULINO BAUTISTA, SAMUEL (36yo,
F) (ID# [REDACTED])

Appt. Date/Time 02/17/2017 09:00AM

DOB

Service Dept.

Behavioral Health - Faris Rd -
GREENVILLE

Provider

LIVINGSTONE, JENNIFER LISW

Insurance

Med Primary: *SELF PAY*

Med Cash: SLIDING FEE SCHEDULE - DISCOUNT

Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details

Chief Complaint

Followup: Generalized anxiety disorder

Followup: Single major depressive episode, moderate

Patient's Pharmacies

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330, Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Medications not reviewed (last reviewed 02/01/2017)

amlODIPine 10 mg tablet

Take 1 tablet(s) every day by oral route.

12/21/16 entered

gabapentin 300 mg capsule Take 1 capsule(s) 3 times a day by oral route.	12/21/16 entered
traMADol 50 mg tablet Take 1 tablet(s) every 4 hours by oral route as needed.	12/21/16 entered
Vitamin D2	12/21/16 entered

Problems**Reviewed Problems**

- Generalized anxiety disorder - Onset: 02/10/2017
- Single major depressive episode, moderate - Onset: 02/10/2017

Family History

Father	- Hypertensive disorder
Mother	- Hypertensive disorder
	- Diabetes mellitus

Social History

Smoking Status: Never smoker
 Are you currently employed?: N
 Education: 4 Year College
 Marital status: Divorced
 Sexual orientation: Heterosexual
 Alcohol intake: None
 Chewing tobacco: none
 Illicit drugs: denies
 Seat belts used routinely: Y
 Sunscreen used routinely: N
 Advance directive: N
 Non-smoker

Surgical History

- Removal of sperm duct(s)

Screening

Name	Score	Notes
PHQ-2/PHQ-9	20 (out of 27 for the PHQ-9)	
GAD-7	12 (out of 21)	

ROS

None recorded.

Physical Exam

None recorded.

Assessment / Plan

D (Discussion): client denies si/hi. reviews cbt again. review example where his son was late from bus and he felt anxious.

R (Response): assessed for safety. reviewed CBT. reviewed hypothetical example. reviewed recent upsetting event and discussed link between thoughts, feelings, body sensations. normalized feelings of anxiety - discussed survival value of anxiety however it can also create false alarm. gave copy of work.

A (Assessment): client on time. wife waits in lobby. mood dysthymic. affect sad. needs interpreter. listens/focuses appropriately. Interested.

P (Plan): client will fill out upsetting events log.

Face to Face Time: 9am-9:45am

1. Single major depressive episode, moderate
 F32.1: Major depressive disorder, single episode, moderate

2. Generalized anxiety disorder
F41.1: Generalized anxiety disorder**Return to Office**

- Livingstone, Jennifer USW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 02/22/2017 at 11:00 AM
- Livingstone, Jennifer USW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 03/03/2017 at 09:00 AM

Encounter Sign-Off

Encounter signed-off by Livingstone, Jennifer USW, 02/17/2017.

Encounter performed and documented by Livingstone, Jennifer USW

Encounter reviewed & signed by Livingstone, Jennifer USW on 02/17/2017 at 9:51am

Encounter Date: 02/10/2017**Patient**

Name	PAULINO BAUTISTA, SAMUEL (36yo, F) ID# [REDACTED]	Appt. Date/Time	02/10/2017 08:00AM
DOB	[REDACTED]	Service Dept.	Behavioral Health - Faris Rd - GREENVILLE
Provider	LIVINGSTONE, JENNIFER USW		
Insurance	Med Primary: *SELF PAY* Med Cash: SLIDING FEE SCHEDULE - DISCOUNT Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information details.		

Chief ComplaintFollowup: Single major depressive episode, moderate
Followup: Generalized anxiety disorder**Patient's Pharmacies**

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330, Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Medications not reviewed (last reviewed 02/01/2017)

amLODIPine 10 mg tablet 12/21/16 entered
Take 1 tablet(s) every day by oral route.gabapentin 300 mg capsule 12/21/16 entered
Take 1 capsule(s) 3 times a day by oral route.traMADol 50 mg tablet 12/21/16 entered
Take 1 tablet(s) every 4 hours by oral route as needed.

Vitamin D2 12/21/16 entered

Problems**Reviewed Problems**

- Generalized anxiety disorder - Onset: 02/10/2017
- Single major depressive episode, moderate - Onset: 02/10/2017

Family History

Father	- Hypertensive disorder
Mother	- Hypertensive disorder - Diabetes mellitus

Social History

Smoking Status: Never smoker
 Are you currently employed?: N
 Education: 4 Year College
 Marital status: Divorced
 Sexual orientation: Heterosexual
 Alcohol intake: None
 Chewing tobacco: none
 Illicit drugs: denies
 Seat belts used routinely: Y
 Sunscreen used routinely: N
 Advance directive: N
 Non-smoker

Surgical History

- Removal of sperm duct(s)

Screening

Name	Score	Notes
PHQ-2/PHQ-9	17 (out of 27 for the PHQ-9)	
GAD-7	16 (out of 21)	

ROS

None recorded.

Physical Exam

None recorded.

Assessment / Plan

D (Discussion): client denies sl/hl. says difficult to come at 8am due to taking kids to school. Interested in handouts. listens to CBT explanation.

R (Response): assessed for safety. provided educational handouts about anxiety and depression (in spanish). reviewed CBT. asked interpreter to work with scheduler and pt to schedule a better time for pt.

A (Assessment): client arrives 25 mins late. good eye contact. walking with cane. needs spanish interpreter. mood depressed. affect sad. tearful. very limited time for session today.

P (Plan): client will read educational handouts. client will think of upsetting situation to discuss next session.

Face to Face Time: 8:25AM-8:45AM

- 1. Single major depressive episode, moderate**
F32.1: Major depressive disorder, single episode, moderate
- 2. Generalized anxiety disorder**
F41.1: Generalized anxiety disorder

Return to Office

- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 02/17/2017 at 09:00 AM
- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 02/22/2017 at 11:00 AM
- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 03/03/2017 at 09:00 AM

Encounter Sign-Off

Encounter signed-off by Livingstone, Jennifer LISW, 02/10/2017.

Encounter performed and documented by Livingstone, Jennifer LISW

Encounter reviewed & signed by Livingstone, Jennifer LISW on 02/10/2017 at 9:56am

Encounter Date: 02/01/2017 (Last amended by Livingstone, Jennifer LISW on 02/07/2017 at 10:50am)

Patient

Name

PAULINO BAUTISTA, SAMUEL (36yo, Appt. Date/Time 02/01/2017 09:00AM
 F) ID# [REDACTED]

Provider LIVINGSTONE, JENNIFER LSW

Insurance Med Primary: *SELF PAY*
 Med Cash: SLIDING FEE SCHEDULE - DISCOUNT
 Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details

Chief Complaint

Initial Evaluation/Assessment

Patient's Pharmacies

NEW HORIZON PHARMACY #2 (ERX): 975 WEST FARIS ROAD, GREENVILLE SC 29605, Ph (864) 729-8330, Fax (864) 751-3218

Vitals

Vitals are not configured.

Allergies

None recorded.

Medications

Reviewed Medications		
amLODIPine 10 mg tablet	12/21/16	entered
Take 1 tablet(s) every day by oral route.		
gabapentin 300 mg capsule	12/21/16	entered
Take 1 capsule(s) 3 times a day by oral route.		
tramadol 50 mg tablet	12/21/16	entered
Take 1 tablet(s) every 4 hours by oral route as needed.		
Vitamin D2	12/21/16	entered

Problems

None recorded.

Family History

Father	- Hypertensive disorder
Mother	- Hypertensive disorder
	- Diabetes mellitus

Social History

Smoking Status: Never smoker
 Are you currently employed?: N
 Education: 4 Year College
 Marital status: Divorced
 Sexual orientation: Heterosexual
 Alcohol intake: None
 Chewing tobacco: none
 Illicit drugs: denies
 Seat belts used routinely: Y
 Sunscreen used routinely: N
 Advance directive: N
 Non-smoker

Surgical History

• Removal of sperm duct(s)

Screening

Name	Score	Notes
PHQ-2/PHQ-9	19 (out of 27 for the PHQ-9)	
GAD-7	13 (out of 21)	

ROS

None recorded.

Physical Exam

Patient is a 36-year-old female.

Mental Status Exam: Appearance: well-groomed and clean. Behavior: cooperative and eye contact. Speech: soft; psychomotor slowing, speaks spanish. Perception: no hallucinations. Cognition: oriented to situation, time, place, and person and alert and memory intact. Intelligence: average. Memory: remote and recent. Mood: depressed. Affect: sad and tearful. Insight: intact. Judgment: intact. Thought Processes: intact. Thought Content: unremarkable. Motor Activity: walks slowly with cane.

Assessment / Plan

start time: 9:38AM End time: 10:40AM

IDENTIFYING AND REFERRAL INFORMATION: Patient is a 36-year-old Spanish-speaking divorced and unemployed male referred by Dr. Moore on 12/5/16 for major depression. Patient accompanied by interpreter A. Gilliland.

PRESENTING PROBLEM: "I need help because my life has had a 360 degree change". Patient reports that he fell at work Feb 2015 resulting in damage to his back. He had surgery and says they denied that he was injured at work. Was having a lot of pain for a long time. "My life changed a lot. Not the same as before. I would like to have my life back. Its affecting me economically and emotionally. I feel like I'm failing my family". Feel isolated, Don't want to go out or do anything. Just want to stay in bed or room.

CURRENT PSYCH MEDS: Takes Gabapentin 300MG. No other MH meds.

MENTAL HEALTH PROBLEMS AND HISTORY: Click here to enter text.

DEPRESSION [PHQ-9 = 19]: began feeling depressed about 1.5 years ago after accident at work; never a problem before then, c/o of little interest in doing things, feeling down, no energy, feeling he is a failure, trouble concentrating, moving and talking slowly. Sleep: trouble falling and staying asleep - worries a lot. Started after the accident. Appetite: eating more in last two weeks.

IRRITABILITY: "anything makes me irritable" - this started after the accident.

BIPOLAR [MDQ =not administered and CIDI = not administered]: none.

ANXIETY [GAD-7 = 13]: often anxious, can't stop worrying, trouble relaxing, being easily annoyed. Feels worried about bills. Feels out of breath, heart racing when feeling anxious. Feels blood pressure medication helps a lot with anxiety.

PTSD: none.

ADHD: none.

OTHER CHILDHOOD OR DEVELOPMENTAL PROBLEMS: none.

EATING DISORDER: eats when anxious, no compensatory behaviors.

PSYCHOSIS: none.

COGNITIVE PROBLEMS: none.

PERSONALITY TRAITS/ISSUES: none

TRAUMA: none.

PAST TREATMENT: No prior IP/OP MH tx.

Meds: prescribed Escitalopram 20MG on 12/5/16 - says he stopped taking it after 8 days because it wasn't helping his anxiety and made him sleepy. No other psych meds.

SAFETY:

S/H/H/SH: No SI past or present. No HI past or present.

SUBSTANCE USE:

AUDIT-C = 0

SCRIPTS = prescribed Tramadol by Dr. Jyoti Math with Southeastern Spine; last script filled 8/15/16 was quantity 112 with 2 refills

UDS= dated 12/21/16 is negative

No alcohol use.

No past or present drug or tobacco use.

IN/OUTPATIENT SUBSTANCE ABUSE TREATMENT: none

MEDICAL:

MEDICATION ALLERGIES: none.

CURRENT MEDICAL AND OTC MEDS: See medical chart.

SIGNIFICANT MEDICAL PROBLEMS: high blood pressure, low back pain, pain in calf

CHANCE OF CURRENT PREGNANCY: n/a

SEIZURE DISORDER: none.

SIGNIFICANT HEAD INJURY AND LOC: none.

FAMILY HISTORY: No MH issues. Father and mother - diabetes. Mother - high blood pressure.

SOCIAL HISTORY:

CURRENT LIVING SITUATION: Live with ex- wife and three children - Adriana (14), Samuel (6) and Xavier (5).

CURRENT SIGNIFICANT RELATIONSHIPS AND SUPPORT: mother - she lives in Dominican Republic

CURRENT EMPLOYMENT: ☒ unemployed ☐ works at Click here to enter text.

PAST EMPLOYMENT: Last worked July 2015 doing maintenance for vehicles. Past computer work.

CURRENT FINANCIAL SITUATION: wife's job

DISABILITY: ☐ currently on disability ☐ has applied for disability ☒ none

CHILDHOOD: From Dominican Republic - in US for 3 years. Raised with mother, 2 brothers (41 and 43), 1 sister (24). Parents not married. Knew father but he wasn't around much. Mom had to be mom and dad. Happy childhood. Says that his wife is having to provide for the family its reminding him of how his mother had to provide for the family since his father wasn't aroun.

EDUCATION: 4 years college in Dominican Republic - in computers.

MILITARY SERVICE: ☒ none ☐ Click here to enter text.

SIGNIFICANT LIFE EVENTS: moved to US 3 years ago from Dominican Republic. Injured at work Feb 2015. Divorced wife but working on reconciliation.

MARRIAGES/CHILDREN: Married for 10 years - divorced 8 months ago but currently living together and trying to work things out.

LEGAL HISTORY: none.

SPIRITUALITY: Christian

OTHER: concerned about hair loss

1. Moderate major depression, single episode

F32.1: Major depressive disorder, single episode, moderate

2. Generalized anxiety disorder

F41.1: Generalized anxiety disorder

Patient Goals

"I would like to go back to normal and not worry so much"

Patient Instructions

Scheduled 4 weekly sessions. Return next week.

Discussion Notes

Client experiencing onset of depression and anxiety subsequent to unemployment resulting from work injury.

Diagnoses:

Major Depressive Disorder, Moderate, Single Episode (F32.1)

Generalized Anxiety Disorder (F41.1)

Unemployment (Z56.9)

Low Income (Z59.6)

Recommended client begin with 4 weekly sessions to address thinking patterns/behaviors contributing to depression and anxiety. Needs interpreter. Consider care advocate referral for financial resources but will ask next session. Sent note to MD re: hair loss concerns.

Return to Office

- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 02/10/2017 at 08:00 AM
- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 02/17/2017 at 08:00 AM
- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 02/24/2017 at 08:00 AM
- Livingstone, Jennifer LISW for BH-Comprehensive at Behavioral Health - Faris Rd - GREENVILLE on 03/03/2017 at 08:00 AM

Amendment Sign-Off

Encounter signed-off by Livingstone, Jennifer LISW, 02/07/2017.

Encounter performed and documented by Livingstone, Jennifer LISW

Encounter reviewed & signed by Livingstone, Jennifer LISW on 02/01/2017 at 11:41am

Amendment closed by Livingstone, Jennifer LISW on 02/07/2017 at 10:50am

APA #8

DR. GLENN SCOTT
I.M.E.

GLENN L. SCOTT, M. D.
900 South Pine Street
Spartanburg, SC 29302

Orthopedic Surgery

Phone (864) 582-3456

Fax (864) 583-3579

December 27, 2017

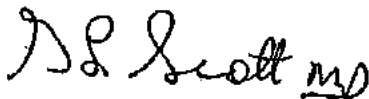
Mr. Steven Garcia
Garcia Law Firm

RE: Samuel Pauline
SS#: [REDACTED]

Dear Mr. Garcia:

As you have requested, I have reviewed the functional capacity evaluation done on Samuel Pauline on November 20, 2017, some six weeks after my evaluation of him on October 3, 2017. After reviewing the FCE, it is my opinion, within a reasonable degree of medical certainty, that Mr. Pauline would not be able to sustain the workplace activities indicated by the FCE for a full eight hour day, particularly not on a day-after-day basis. His alteration of back and gait mechanics along with his ongoing lumbar spasm and nerve root irritation, in my opinion, preclude this on a sustained basis with resultant progressively increasing pain as he attempted to sustain these activities. If there is some interval change in his condition between the independent medical evaluation and functional capacity evaluation, I would be glad to reevaluate him in that regard, although again in my opinion, such is unlikely. At this point, it would be my recommendation that the EMG-NCV studies be provided for him to assist in recommendations regarding a spinal cord stimulator versus continued pain management. Once he has been deemed at maximum medical improvement following the above recommendations, a follow up FCE, in my opinion, would be appropriate.

Sincerely,



Glenn L. Scott, M. D

GLS:gb

STATE OF SOUTH CAROLINA
In the Court of Appeal

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

T. Scott Beck, Commissioner
Gene McCaskill, Commissioner
R. Michael Campbell, II, Commissioner

SCWCC File No. 1508995

Appellate Case No. 2018-001964

Samuel Paulino, Claimant, Respondent,

v.

Diversified Coatings, Inc., Employer, and Amguard Ins. Co., Carrier, Appellants.

SECOND APPENDEIX
TO THE RECORD ON APPEAL

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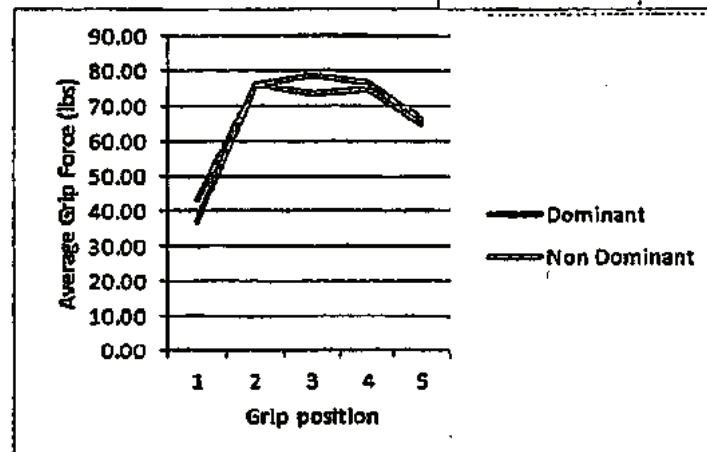
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Name: Samuel De Jesus Paulino-Bautista

Date: November 20, 2017

Hand Grip (measured in lbs): RIGHT Dominant

	#1 Dom	#1 Non-Dom	#2 Dom	#2 Non-Dom	#3 Dom	#3 Non-Dom	#4 Dom	#4 Non-Dom	#5 Dom	#5 Non-Dom
Trial 1	40	36	75	80	70	72	75	82	65	70
Trial 2	46	36	77	72	78	82	74	74	62	62
Trial 3	44	40	76	76	72	82	75	74	68	68
Co Var	7.05%	6.19%	1.32%	5.26%	5.68%	7.34%	0.77%	6.02%	4.62%	6.24%
WFL Male	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
WFL Female	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y



Heart rate response was appropriate with HR of 119 bpm.

Name: Samuel De Jesus Paulino-Bautista

Date: November 20, 2017

Functional Capacity Evaluation Observation and Assessment

Correlation between pain rating and observed behavior: Samuel did not demonstrate a high pain focus during activities. According to the Pact Sort test, Samuel's perceived abilities did not approximate the actual PDC level performed, scoring less than sedentary of the test, but physically testing in the medium category. There was a high pain focus noted according to Million Visual Analog Scale scoring 114.5) Oswestry Low Back Questionnaire scoring 60% and the Dallas Pain Questionnaire (scoring greater than 50% in 4/4 categories. The McGill Pain Questionnaire (scoring 14) and the Lower Extremity Functional Scale (scoring 74% functional) tested in low pain focus ranges.

Observed body mechanics and material handling ability: Samuel was noted to have decreased range of motion with lumbar/trunk rotational and flexion movements, and when lifting floor to waist with decreased body mechanics to decrease weight bearing on R LE. No other body mechanic limitations were noted throughout FCE.

Observed Gross Coordination: Samuel was able to complete all tasks with WFL gross coordination.

Are Observed Efforts consistent from task to task? Yes. The Coefficient of Variation for 3/4 static tests were found to be below the accepted cutoff of 15% indicating consistent effort. The coefficient of variation was below the accepted cutoff for grip testing on 10/10 trials indicating consistent effort. The curve formed by the grip testing did approximate the expected bell shaped curve for 2/2 trials indicating consistent effort. Heart rate response was appropriate for 7/8 trials. Self-limiting behavior was not demonstrated. Patient also had a max lift/ to modified PILE floor to waist of 33% and waist to overhead of 43%. Consistent effort for this shows the ratio to be within 50-70%.

Summary:

- During Material Handling Activities, Samuel achieved a PDC level of Medium with a floor to waist lift of 45 pounds indicating his occasional lift maximum of 50lb lbs. His frequent lift capacity was demonstrated to be 15 lbs.
- Samuel demonstrated the following activities at the following levels:
 - o Constant level (>40 min/hr or >66 reps/hr): sitting, walking, and standing.
 - o Frequent level (20-40 min/hr or 20-40 reps/hr): lumbar flexion, rotation, heel raises.
 - o Occasional level (<20 min per hour/0-20 reps/hr): kneeling, overhead activity, knee squats.

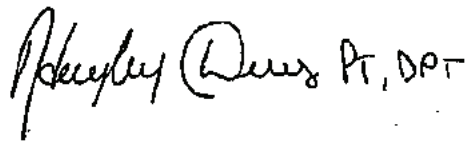
Name: Samuel De Jesus Paulino-Bautista

Date: November 20, 2017

- Consistency of Effort demonstrated was good. There was a high focus noted, based upon pain questionnaires.
- Aerobic capacity was unable to be determined due to inability to complete test due to safety concerns associated with an antalgic gait pattern while walking at the required speed and incline.

Thank you for the referral of your patient to physical therapy at Elite Integrated Therapy Centers. We look forward to assisting you in the care of your patients.

Sincerely,



Hayley Drews PT, DPT

STATE OF SOUTH CAROLINA
In the Court of Appeal

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Gene McCaskill, Commissioner
R. Michael Campbell, II, Commissioner
T. Scott Beck, Commissioner

SCWCC File No. 1508995

Appellate Case No. 2018-001964

RECEIVED
MAR 14 2019
SC Court of Appeals

Samuel Paulino, Claimant.....Respondent

v.

Diversified Coatings, Inc., Employer, and AmGuard Ins. Co., Carrier.....Appellants.

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STATEMENT OF ISSUES ON APPEAL

1. Although medical impairment ratings are usually a question of fact for the Commission, they become an issue of law for the Court when the evidence points to one conclusion only or the Commission's findings are based on surmise, speculation, or conjecture. In this case, all the evidence points to a 12% impairment, and the Commission's finding is based on surmise, speculation, or conjecture. Did the Commission commit an error of law?
2. A decision is arbitrary if it has no rational basis or is based alone on will rather than a course of reasoning. In this case, the Commission assigned a "greater than 50%" impairment rating based on two unsubstantiated claims. Is the Commission's decision arbitrary?
3. "Substantial evidence" is evidence that allows reasonable minds to reach the conclusion that the administrative agency reached. Dr. Math assigned a 12% spinal impairment rating. To assign an impairment of "greater than 50%," the Commission relied on two unsubstantiated claims and the irrelevant fact that Paulino cannot speak English well. Would that evidence allow reasonable minds to reach the conclusion that the Commission reached?
4. The Commission is supposed to assign a definite spinal impairment rating. But the Commission assigned instead a "greater than 50%" impairment rating. Did the Commission commit an error of law?
5. When the Commission determined that Claimant was permanently and totally disabled, it disregarded the medical impairment rating assigned by a doctor and infused considerations regarding a loss of earning capacity. Loss of earning capacity is the model for obtaining disability benefits under sections 42-9-10 and 42-9-20, not the model for obtaining

disability benefits under section 42-9-30. Did the Commission err by infusing such considerations into a section 42-9-30(21) analysis?

6. Even if Paulino's spinal impairment rating is somehow "greater than 50%", Dr. Math's 14B, the only relevant medical evidence, rebuts the presumption of permanent and total disability. Did the Commission err when it determined that the Carrier failed to rebut the presumption?

STATEMENT OF THE CASE

Paulino's Workers' Compensation Claim arose from an injury he sustained around 02/06/2015. At a hearing on 03/05/2018, Paulino asked the single Commissioner to find him permanently and totally disabled under section 42-9-30(21), arguing he had a greater than 50% spinal impairment. The Employer and Carrier (hereinafter Carrier) sought to conclude the claim because Paulino had reached maximum medical improvement (MMI) and a doctor had assigned a 12% spinal impairment. On 04/13/2018, the Commissioner ruled (along with other things unrelated to this appeal) that Paulino sustained a greater than 50% spinal impairment. This finding, along with the Commission's determination that Carrier failed to rebut the presumption of total disability, rendered Paulino permanently and totally disabled under section 42-9-30(21), entitling him to 500 weeks of compensation. Paulino's compensation rate is \$312.22, meaning the Commissioner awarded him \$156,110. He also received lifetime medical benefits under section 42-15-60.

The full Commission hearing took place on 07/16/2018. The Commission (with modifications unrelated to this appeal) affirmed the single Commissioner's order on 10/03/2018. In its affirmance, the Commission noted that no medical professional gave a regional spinal impairment higher than 12%. But the Commission ruled that this rating was "very low based on the poor

surgical result.” No definition of “poor surgical result” was given. The Commission also listed Paulino’s inability to speak English fluently, part of his work history and training, and his medication list while concluding he is permanently and totally disabled. In fact, the Commission said that “based on [Paulino’s] medication list alone, [he] has suffered a major disability.” The Commission did not provide the medical basis of that opinion, or explain why a “major disability” equates to permanent and total disability under the South Carolina Workers’ Compensation Law.¹ Carrier filed a Notice of Appeal on 11/02/2018.

STANDARD OF REVIEW

The standard of review set forth in the Administrative Procedures Act applies to Workers’ Compensation cases.²

1. The court may reverse the Commission’s decision if the substantial rights of the appellant have been prejudiced because other error of law affects the administrative decision.³
2. The court may reverse the Commission’s decision if the substantial rights of the appellant have been prejudiced because the administrative decision is arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.⁴
3. The court may reverse the Commission’s decision if the substantial rights of the appellant have been prejudiced because it is clearly incorrect in light of the reliable, probative and substantial evidence on the whole record.⁵

¹ “This title shall be known and cited as ‘The South Carolina Workers’ Compensation Law.’” S.C. Code Ann. §42-1-10.

² *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 276 S.E.2d 304, 305 (1981).

³ S.C. Code Ann. §1-23-380(5)(d).

⁴ S.C. Code Ann. §1-23-380(5)(f).

⁵ S.C. Code Ann. §1-23-380(5)(e).

ARGUMENT

I. The Commission committed an error of law.

In *Clemmons*, the South Carolina Supreme Court made clear that impairment ratings, though usually a question of fact for the Commission, will become an issue of law for the Court if all the evidence points to one conclusion or “the Commission’s findings are based on surmise, speculation or conjecture.”⁶ In addition, though the Claimant in *Clemmons* had significant work restrictions,⁷ the Court focused exclusively on his spinal impairment ratings while determining the extent of his impairment under section 42-9-30(21).⁸ Work restrictions, therefore, are not part of the analysis under the scheduled member statute.

In this case, Dr. Math assigned a spinal impairment of 12%. (Dr. McHenry assigned a whole person impairment rating, but whole person ratings are irrelevant under the scheduled member statute⁹). Despite the 12% rating, the Commission ruled that Paulino’s spinal impairment is “greater than 50%.” In doing so, it claimed that 1) “[his] impairment ratings are very low based on the poor surgical result,”¹⁰ and that 2) “based on the medication list alone, [Paulino] suffered a major disability.”¹¹

The Commission did not define “poor surgical result” or “major disability.” And, more importantly, the Commission did not substantiate these claims with any medical opinions or other

⁶ *Clemmons v. Lowe’s Home Ctrs., Inc.*, 420 S.C. 282, 803 S.E.2d 268, 271 (2017) (internal quotations and citations omitted).

⁷ *Id.*, 420 S.C. 282, 803 S.E.2d 268, 269 n. 1.

⁸ *Id.*, 420 S.C. 282, 803 S.E.2d 268, 271.

⁹ *Id.*, 420 S.C. 282, 803 S.E.2d 268, 271 (internal citations omitted).

¹⁰ R. p. 13, ¶9.

¹¹ R. p. 13, ¶10.

evidence.¹² Consequently, these claims are based on nothing more than “surmise, speculation [,] or conjecture.”

Conversely, Dr. Math based her medical opinion on the most recent edition of the premier medical treatise concerning impairments.¹³ Given this, all the medical evidence points to a 12% spinal impairment, whereas the Commission based its rating on “surmise, speculation [,] or conjecture.” Therefore, its decision constitutes an error of law. This Court should overturn the spinal impairment assigned by the Commission, and then remand the case for a determination of permanency that is less than 50%.

II. The Commission’s decision is arbitrary.

In *Deese* the Supreme Court explained that, “A decision is arbitrary if it is without a rational basis, is based alone on one’s will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards.”¹⁴ As shown in the previous argument section, the Commission did not provide a reason, let alone a course of reasoning, that substantiated the basis of its “greater than 50%” rating. Consequently, its decision is arbitrary. This Court should overturn it and then remand the case for a determination of permanency that is less than 50%.

III. The Commission’s decision is unsupported by substantial evidence.

The Commission’s findings can be set aside if unsupported by substantial evidence.¹⁵ “Substantial evidence is not a mere scintilla of evidence nor the evidence viewed blindly from one

¹² See *Burnette v. City of Greenville*, 401 S.C. 417, 737 S.E.2d 200, 206 (Ct. App. 2013) (The Court of Appeals rejected the Commission’s adoption of the single Commissioner’s medical opinion when no medical evidence supported it).

¹³ R. p. 33 (referencing the AMA’s *Guides to the Evaluation of Permanent Impairment*, 6th ed.).

¹⁴ *Deese v. S.C. State Bd. Of Dentistry*, 286 S.C. 182, 332 S.E.2d 539, 541 (Ct. App. 1985).

¹⁵ *Clemmons*, 420 S.C. 282, 803 S.E.2d 268, 270 (internal citation omitted).

side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached in order to justify its action.”¹⁶

In this case, all the medical evidence supports a 12% spinal impairment. But the Commission disagreed with the medical evidence and multiplied the impairment rating by more than four. To do this, it relied on two unsubstantiated claims regarding a “poor surgical result” and a long medication list. In addition to these unsubstantiated claims, the Commission noted that Paulino cannot “speak much or any English” and provided part of his work history and training. Of course neither of these two pieces of information has any bearing on the extent of his spinal impairment. If these irrelevant pieces of information were part of the Commission’s decision to assign a “greater than 50%” rating, then these along with the two unsubstantiated claims are too insubstantial to support that decision. No reasonable minds would reach the conclusion that the administrative agency reached based on this evidence. The Court should overturn the “greater than 50%” spinal impairment rating and then remand the case for a determination of permanency that is less than 50%.

IV. The Commission erred by failing to assign a definite spinal impairment rating.

In *Clemmons*, the Court determined that, based on the spinal impairment ratings, the Claimant had “lost more than fifty percent of the use of his back.”¹⁷ The Court then remanded the case to the Commission “for a new hearing to determine his percentage of impairment...”¹⁸ In this case, the Commission failed to provide a definite spinal impairment rating; instead, it assigned a “greater than 50%” impairment rating. Doing so was an error of law under *Clemmons*. This court should

¹⁶ *Clemmons*, 420 S.C. 282, 803 S.E.2d 268, 270 (internal quotations and citations omitted).

¹⁷ *Id.*, 420 S.C. 282, 803 S.E.2d 268, 272.

¹⁸ *Id.*

reverse the Commission's decision, and then, based on the other arguments in this brief, remand the case for a determination of permanency that is less than 50%.

V. The Commission erred by infusing loss of earning capacity into its section 42-9-30 analysis.

There are three methods of obtaining disability compensation under the Workers' Compensation Law.¹⁹ These methods occur under section 42-9-10, section 42-9-20, and section 42-9-30.²⁰ "The first two methods are premised on the economic model, in most instances, *while the third method conclusively relies upon the medical model with its presumption of lost earning capacity.*"²¹ The economic model focuses on loss of earning capacity,²² Claimants are seeking to show that their incapacity for work resulting from disability is either total or partial. In the case of section 42-9-10, they do this by showing an "inability to perform services other than those that are so limited in quality, dependability, or quantity that a reasonably stable [job] market for them does not exist."²³ For section 42-9-20, they establish that they have lost wages because of their work injury.²⁴

In this case, Paulino asked the Commission to award compensation under section 42-9-30(21), which conclusively relies on medical evidence.²⁵ Despite this fact, the Commission infused loss

¹⁹ *Dent v. E. Richland Cnty. Pub. Serv. Dist.*, 423 S.C. 193, 813 S.E.2d 886, 890 (Ct. App. 2018) (citing *Wigfall v. Tideland Utilities, Inc.*, 354 S.C. 100, 105, 580 S.E.2d 100, 102 (2003)).

²⁰ *Id.*

²¹ *Id.* (emphasis added).

²² *Id.* (citing *Wynn v. Peoples Natural Gas Company of South Carolina*, 238 S.C. 1, 11-12, 118 S.E.2d 812, 817-18 (1961)) (internal citations omitted).

²³ *Id.*

²⁴ *Skinner v. Westinghouse Electric Corp.*, 394 S.C. 428, 716 S.E.2d 443, 445-46 (2011) (denying workers' compensation benefits under section 42-9-20 because Claimant could not prove that he lost wages because of the asbestosis he contracted).

²⁵ *Stephenson v. Rice Services*, 323 S.C. 113, 473 S.E.2d 699, 701 (1995) ("[W]ith schedule injuries, compensation depends upon the character of the injury rather than on loss of earnings") (citing and describing *Dunmore v. Brooks Veneer Co.*, 248 S.C. 326, 149 S.E.2d 766 (1966))).

of earning capacity considerations into its analysis and award. For example, the Commission's findings of fact include Paulino's inability to speak English and part of his prior work history and training.²⁶ Regarding Paulino's medical condition, these facts are irrelevant. They only have relevance if the Commission was considering Paulino's loss of earning capacity. Because considering loss of earning capacity while awarding benefits under section 42-9-30 is an error of law, this Court should reverse the Commission's decision. And then remand the case for a determination of permanency that is less than 50%.

VI. The medical evidence in the record rebuts the presumption of permanent and total disability.

Under section 42-9-30(21), if a Claimant has a 50% or more spinal impairment, a Carrier may still rebut the presumption of permanent and total disability.²⁷ As already shown, no medical evidence supports a spinal impairment rating higher than 12%, and the Commission based its contrary conclusion on surmise, speculation, or conjecture. But even if the Court somehow disagrees and determines Paulino's rating is "greater than 50%", Dr. Math's 14B rebuts the presumption of permanent and total disability. Dr. Math assigned a 12% spinal impairment and light duty work restrictions, with no lifting of items weighing more than 10 lbs. Based on her medical opinion, Paulino is not totally disabled. And section 42-9-30 conclusively relies on medical evidence. The Commission has none. Therefore, if the Court agrees with the "greater than 50%" impairment rating, then the Court should also determine that the Carrier rebutted the presumption of permanent and total disability.

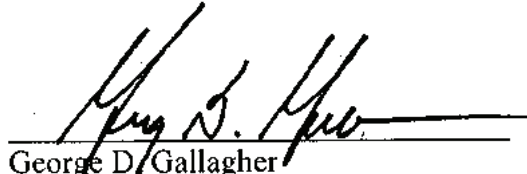
²⁶ R. p. 13, ¶¶5-6.

²⁷ S.C. Code Ann. §42-9-30(21); *Clemmons*, 420 S.C. 282, 803 S.E.2d 268, 271-72.

CONCLUSION

Errors of law undermine the Commission's decision, which is also without a rational basis. In fact, only insubstantial evidence could be said to support the decision. It should not stand. Carrier asks this Court to reverse the Commission's decision, and then remand the case for a determination of permanency that is less than 50%. On the other hand, if the Court somehow agrees with the "greater than 50%" impairment rating, then the Court should also determine that the Carrier rebutted the presumption of permanent and total disability.

Respectfully submitted,



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kmaroney@speed-seta.com

_____, 2019
Columbia, SC

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Gene McCaskill, Commissioner
R. Michael Campbell, II, Commissioner
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Appellate Case No. 2018-001964

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MAY 23 2019

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v.

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Appellant.

FINAL BRIEF OF THE RESPONDENT

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STATEMENT OF THE CASE

This case was heard by the Single Commissioner on March 5, 2018 in Spartanburg, South Carolina and by the Full Commission on July 16, 2018 in Columbia, SC. All parties were present for the hearing: The Claimant, Samuel Paulino, the Claimant's attorney, Stephen N. Garcia; the Defendants, Diversified Coating System and AmGuard Ins. represented by their attorney, George Gallagher.

The Single Commissioner Hearing was called at the request of Defendants/Appellants. The Defendants/Appellants sought a finding of permanency and argued that Claimant/Respondent was not permanently and totally disabled.¹ Defendants/Appellants further argued Claimant/Respondent had *not* sustained a 50% or greater disability to the spine and that there was no evidence of vocational disability on the part of the Claimant/Respondent citing Claimant/Respondent's age, educational background and work history in the Dominican Republic.² Defendants/Appellants admitted that Claimant/Respondent's alleged psychological condition was related to the work incident, however, Defendants/Appellants denied liability for the cost of medical treatment, and as grounds, cited that the psychological treatment was not performed by a physician of the Defendants/Appellant's choosing.³

The Claimant/Respondent argued that Claimant *was* permanently and totally disabled under S.C. Code § 42-9-10 or, alternatively, S.C. Code §42-9-30(21), and that he was entitled to future medical care, compensability as to a denied psychological claim, continuing medical treatment, and a lump sum award.⁴ The Single Commissioner found that Claimant/Respondent had sustained a disability of greater than 50%, that Defendant/Appellant failed to rebut the

¹ Appendix to Record p. 28, lines 20-22; *See also* p. 29, lines 10-12.

² *Id.* at p. 28, line 23 through p. 29, line 12.

³ *Id.* at p. 35, line 25 through p. 36, line 9.

⁴ *Id.* at p. 30, line 5 through p. 32, line 20.

presumption of permanent and total disability, and therefore, Claimant/Respondent was permanently and totally disabled pursuant to S.C. Code § 42-9-30(21) and entitled to future medical care to maintain his current level of function.⁵ Defendants/Appellants timely filed their Form 30 Request for Review. The Full Commission hearing was held on July 16, 2018. The Full Commission affirmed the Order of the Single Commissioner with a minor modification (by Consent of the Parties) that terminated the Claimant/Respondent's treatment benefits for psychological injury.⁶ Defendants/Respondents now appeal the Decision and Order of the Full Commission.

STANDARD OF REVIEW

The standard of review in the instant matter is governed by S.C. Code § 1-23-380. The review must be confined to the record.⁷ The Court may not substitute its judgment for the judgment of the Full Commission as to the weight of the evidence on questions of fact and may only affirm or remand the case for further proceedings.⁸ However, the Court may reverse or modify the decision of the Full Commission if substantial rights of the Appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (a) in violation of constitutional or statutory provisions, (b) in excess of the statutory authority of the agency, (c) made upon unlawful procedure, (d) affected by other error of law, (e) clearly erroneous in view of reliable, probative, and substantial evidence on the whole record, or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.⁹ Although Claimant/Respondent asserts that no such grounds exist for reversal and/or modification of the

⁵ Appendix to Record p. 2, Single Commissioner Order dated April 12, 2018.

⁶ Record p. 2, Full Commission Order dated October 3, 2018.

⁷ S.C. Code § 1-23-380(4).

⁸ S.C. Code § 1-23-380(5); see also *Potter v. Spartanburg*, 395 S.C. 17, 716 S.E.2d 123 (S.C.App. 2011)

⁹ *Id.*

Full Commission's Order, Defendants/Appellants have asserted only the aforementioned (d), (e) and (f) as grounds for Appeal.¹⁰

ARGUMENT

- I. **THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD AS A WHOLE TO SUPPORT A FINDING AND CONCLUSION OF LAW THAT CLAIMANT SUFFERED AN IMPAIRMENT OF 50% OR MORE TO THE SPINE SUCH THAT THE REBUTTABLE PRESUMPTION OF PERMANENT AND TOTAL DISABILITY IS TRIGGERED PURSUANT TO S.C. CODE § 42-9-30(21).**
- II. **APPELLANTS' RELIANCE ON CLEMMONS FOR THE POSITION THAT THE COMMISSION MAY NOT CONSIDER OTHER FACTORS BEYOND MEDICAL IMPAIRMENT IN DETERMINING THE EXTENT OF CLAIMANT'S DISABILITY IS MISPLACED.**

The Defendants/Appellants argues that the Full Commission's award of permanent and total disability is based on surmise, speculation or conjecture, that the Commission's award is arbitrary, and that the Commission's award is unsupported by substantial evidence. The Claimant/Respondent disagrees. The Court of Appeals may not substitute its judgment for the judgement of the Full Commission as to the weight of evidence on questions of fact.¹¹ The *Clemmons* Court—a case heavily relied upon by Defendants/Appellants—states:

“Although a claimant's degree of impairment is usually a question of fact for the Commission, if all the evidence points to one conclusion or the Commission's findings ‘are based on surmise, speculation or conjecture, then the issue becomes one of law for the court....’ *Polk v. E.I. duPont de Nemours Co.*, 250 S.C. 468, 475, 158 S.E.2d 765, 768 (1968) (citing *Hines v. Pacific Mills*, 214 S.C. 125, 131, 51 S.E.2d 383, 385 (1949)); see also *Randolph v. Fiske-Carter Constr. Co.*, 240 S.C. 182, 189, 125 S.E.2d 267, 270 (1962) (holding where there is absolutely no evidence to support the Commission's findings, the question becomes a question of law).”¹²

Although this Court may not ordinarily substitute its judgment for the judgement of the

¹⁰ See Defendants/Appellants' Brief, p. 6.

¹¹ S.C. Code § 1-23-380(5).

¹² *Clemmons v. Lowe's Home Centers, Inc.-Harbison*, 420 S.C. 282 at 287, 803 S.E.2d 268 at 270 (2017) (Emphasis added.)

Full Commission as to the weight of evidence on questions of fact, where the Full Commission's findings are based on surmise, speculation or conjecture, the issue then becomes one of law for the Court.¹³ The Claimant/Respondent argues that the overwhelming evidence in the record as a whole supports the Full Commission's Findings and Conclusion, including that the Claimant has suffered a disability of greater than 50%, to wit:

Southeastern Neuro and Spine, Dr. Timothy McHenry, Neurosurgeon

- 8/19/15—First appointment following surgery; patient states stabbing, burning and pins/needles radiating from right side low back and down leg; initially better after surgery but has gradually worsened over the last couple of weeks.¹⁴
- 9/28/15—Continues with right leg pain; now ambulating with walker; R Lower leg pain described as burning and aching along with numbness; patient thinks he is slightly better but continues to be plagued by persistent right leg pain and back pain.¹⁵
- 10/21/15—Continues to not do well overall; continued back pain; continues right radicular leg pain; decreased sensation on the right L3 and L4 distributions worse on the L4 distribution; straight leg raise on the right side reproduces radicular leg pain to his foot and ankle; it would be beneficial to get him to pain management to consider other treatment options including possible spine injection.¹⁶
- Returns—with persistent low back pain and right leg pain; improved from before surgery, but he is having persistent symptoms that are limiting his activities; he is unable to work; positive for back pain and gait problems; positive for dysphoric mood; he has persistent radiculopathy.¹⁷
- 4/12/17—He returns today with persistent right radicular leg pain, unchanged from previously; positive for back pain and gait problem; positive for sleep disturbance and dysphoric mood; I do not think he will benefit from further surgical intervention; he would like to consider other treatment options through pain management, We'll place the referral.¹⁸

¹³ *Clemmons v. Lowe's Home Centers, Inc.-Harbison*, 420 S.C. 282 at 287, 803 S.E.2d 268 at 270 (2017) (Emphasis added.)

¹⁴ Appendix to Record pp. 110-111.

¹⁵ *Id.* p. 115-116.

¹⁶ *Id.* p. 120-121.

¹⁷ *Id.* p. 125.

¹⁸ Appendix to Record p. 130-131.

Functional Capacity Evaluation, Elite Physical Therapy (11/20/17)

- Claimant demonstrated various compensations throughout testing including, but not limited to: decreased stances time on R LE, decreased R hip/knee flexion in swing phase, overall antalgic gait pattern, increased trunk flexion, knees do not flex beyond 90 deg, requires use of hands to steady self, facial grimace, favors LEFT side, decreased weight bearing in R LE for all repetitions, mild slouched posture, R LE extended out in front, pt reported slow increase in low back pain throughout sit, decreased lumbar curve reversal, only able to rotate 75% lumbar ROM, required use of UEs on chair to return to standing, multiple attempts made without use of furniture that results in short drop back to ground.¹⁹
- Walking (20 min): Patient demonstrated the ability to walk 20 minutes indicating a constant level. Aerobic capacity was unable to be determined because of intense pain and antalgic gait on treadmill. Pt. was unable to tolerate 5% grade and the minimum walking speed to complete the test. Pt. was able to walk the 20 min. at 1.5mph with significant compensations. Heart rate response was appropriate with HR of 147 bpm. The following compensations were observed: decreased stance time on R LE creating asymmetrical stride length, decreased R hip/knew flexion in swing phase, labored breathing and mild sweating, forward flexed hip/trunk, B midfoot strike instead of heel strike, overall antalgic gait pattern, 8/10 low back pain reported after.²⁰
- Static standing (30 min): Patient demonstrated the ability to stand for 30 minutes indicating a constant level. The following compensations were noted: Frequent weight shift onto LEFT side, slow increase in pain reported in low back and numbness down R LE to foot as stand progressed.²¹
- High pain focus noted according to Million Visual Analog Scale scoring 114.5.²²
- Observed body mechanics and material handling ability: Samuel was noted to have decreased range of motion with lumbar/trunk rotational and flexion movements, and when lifting floor to waist with decreased body mechanics to decrease weight bearing on R LE.²³
- Are Observed Efforts consistent from task to task? Yes. The Coefficient of Variation for ¾ static tests were found to be below the accepted cutoff of 155 indicating consistent effort. The coefficient of variation was below the

¹⁹ *Id.* at p. 99-100.

²⁰ *Id.* at p. 99.

²¹ *Id.*

²² 2nd Appendix to Record p. 3.

²³ 2nd Appendix to Record p. 3.

accepted cutoff for grip testing on 10/10 trials indicating consistent effort. The curve formed by the grip testing did approximate the expected bell shaped curve for 2/2 trials indicating consistent effort. Heart rate response was appropriate for 7/8 trials.²⁴

- Self-limiting behavior was not demonstrated. Patient also had mac lift/to modified PILE floor to waist of 33% and waist to overhead of 43%. Consistent effort fir this shows the ratio to be within 50%-70%.²⁵
- Aerobic capacity was unable to be determined due to inability to complete test due to safety concerns associated with an antalgic gate pattern while walking at the required speed and incline.²⁶

Ortho-Neuro Patewood / Physiatry Crosscreek 111, Dr. Jyoti K. Math, Pain Management

- 8/2/17—Clinical progression has not changed, worse with prolonged sitting and walking, relieves with a medication, he has been taking Flexeril and Gabapentin, which helps; He has not received the functional capacity evaluation yet; He ambulates with a cane with antalgic gait; Lumbar range of motion causes pain; Lumbar radiculopathy, chronic; We will refill Gabapentin and Flexeril; We will order a functional capacity evaluation; He will stay out of work until he gets the functional capacity evaluation.²⁷
- 12/6/17—Patient had FCE on 11/20/17; Patient reports he tried his best during FCE, but the pain aggravated after FCE was completed for next couple of days; Patient reports persistent pain in right lower extremity L5 distribution; He reports his pain is activity limiting; He feels his pain is not adequately controlled; Considering duration of pain, most likely will have chronic pain issues; He and his wife became very tearful and emotional; He exhibits tenderness; He has decreased stance and right lower extremity.²⁸
- 12/6/17—I do believe that his symptoms are due to work-related injury. Today, I am going to place him at MMI with impairment rating 12% as per AMA Guidelines 6th edition. He will require chronic pain management in the form of pain medication, neuropathic medication, muscle relaxants, interventions like steroid injection. He may also be a candidate for spinal cord stimulator for his chronic R radiculopathy.²⁹

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at p. 4.

²⁷ Appendix to Record pp. 270-273.

²⁸ *Id.* at pp. 277-278.

²⁹ Appendix to Record p. 280.

- 12/6/17—Form 14B Permanent limitations are: light work duty, no lifting greater than 10 lbs., Future Medical: Medical Care or Treatment needed; Chronic pain management requiring pain medications, injections and spinal cord stimulator trial.³⁰

Independent Medical Evaluation, Dr. Glenn L. Scott

- 12/27/17—After reviewing the FCE, it is my opinion, within a reasonable degree of medical certainty, that Mr. Paulino would not be able to sustain the workplace activities indicated by the FCE for a full eight-hour day, particularly not on a day-after-day basis. His alteration of back and gait mechanics along with his lumbar spasm and nerve root irritation, in my opinion, preclude this on a sustained basis with resultant progressively increasing pain as he attempted to sustain these activities.³¹
- At this point, it would be my recommendation that the EMG-NCV studies be provided for him to assist in recommendation regarding a spinal cord stimulator versus continued pain management.³²

Testimony of Claimant/Respondent

- Claimant/Respondent testified he was born on April 22, 1980 in the Dominican Republic and that he moved to the United States in May of 2014; Claimant further testified that he does not speak English.³³
- Claimant/Respondent would drive before the work injury, but he no longer drives.³⁴
- Claimant/Respondent graduated from high school in the Dominican Republic and attended a 4-year college in the Dominican Republic as well; however, Claimant/Respondent has not attended any classes in the United States.³⁵
- Since moving to the United States, Claimant/Respondent has held two jobs: one as an ice cream truck driver and the other for the Defendant Employer as a janitor, but also testified that he could not perform those jobs today in his current physical state.³⁶

³⁰ *Id.* at p. 288.

³¹ *Id.* at p. 318.

³² *Id.*

³³ *Id.* at p. 39, line 21 through p. 41, line 10.

³⁴ *Id.*

³⁵ Appendix to Record p. 41, line 11 through p. 44 line 20.

³⁶ *Id.*

- All the jobs Claimant/Respondent has performed in the United States required lifting and physical exertion in excess of his permanent work restrictions.³⁷
- Claimant/Respondent has attempted to find work within his restrictions, including work in a computer-related field, and he has been repeatedly denied employment because of a lack of formal training in the United States and because of his language barrier.³⁸
- Claimant testified that he approached the exam with maximum effort as a reference point for his resultant physical capacity following the work injury. Claimant testified that as a result of the effort exerted, he experienced a lot of pain and needed help for the next three days just to get out of bed. Claimant indicated that the FCE lasted only two hours and twenty minutes or so, but that he did not believe he could perform a repeat FCE at the same level the very next day. Claimant also stated that it would be impossible for him to perform the activities that comprised the FCE for eight hours per day and forty hours per week.³⁹

Defendants/Appellants do not stop there. Despite the *Clemmons* holding stating that the issue of disability is a question of fact to be determined by the Commission,⁴⁰ the Defendants/Appellants argue that *Clemmons* stands for the proposition that the only consideration for the Commission in determining the extent of impairment under S.C. Code § 42-9-30 is the medical evidence. However, the Commission may indeed rely on the Claimant/Respondent's testimony regarding the character and extent of a claimant's back injury, the restrictions that the injury has placed on his physical activities, the pain a claimant feels in his back, and even the medication taken to walk normally.⁴¹ Stated plainly, Defendants/Appellants assert that the *Clemmons* holding requires that the medical evidence regarding an impairment percentage alone, without consideration of any other factors, is the only consideration when determining the extent of a claimant's disability. This is an entirely different position than what the Defendants/Appellants

³⁷ *Id.* at p. 44, line 21 through p. 45, line 16.

³⁸ *Id.* at p. 45, line 17 through p. 47, line 20.

³⁹ *Id.* at p. 47, line 21 through p. 48, line 19.

⁴⁰ *Clemmons v. Lowe's Home Centers, Inc.-Harbison*, 420 S.C. 282 at 287, 803 S.E.2d 268 at 270 (2017).

⁴¹ *Sanders v. MeadWestvaco Corp.*, 371 S.C. 284, 638 S.E.2d 66 (S.C.App. 2006)(rehearing denied, certiorari granted, certiorari dismissed as improvidently granted 381 S.C. 208, 672 S.E.2d 785).

took at the Single Commissioner Hearing, where Defendants/Appellants argued:

“We would admit that [Claimant/Respondent] is entitled to a -- an award of -- of permanent partial disability in excess of [Dr. Math’s 12% rating] based on whatever subjective testimony he is going to present today and in conjunction with the [Functional Capacity Evaluation] but we don’t believe it rises to the level of a disability case.”⁴²

Claimant/Respondent denies such a broad reading of *Clemmons*. Instead, Claimant/Respondent offers that *Clemmons* stands for the narrow reading that medical evidence of a *regional impairment* of 50% or more to any region of the back *without any other evidence regarding impairment* is conclusive evidence so as to trigger the rebuttable presumption of permanent and total disability under S.C. Code § 42-9-30(21). Claimant/Respondent further offers, that *Clemmons* stands for the proposition that evidence of subsequent employment may be insufficient by itself to rebut the presumption of permanent and total disability under § 42-9-30(21). Claimant/Respondent denies that *Clemmons* creates an objective standard regarding a Claimant’s impairment.

Defendants/Appellants also point to the impairment rating of 12% as opined by the treating physician, Dr. Math, in support of their position that the Claimant/Respondent in the instant matter has not sustained a greater than 50% impairment to the back. Dr. Math’s rating is derived from the AMA GUIDES TO THE EVALUATION OF PERMANENT IMPAIRMENT 6TH EDITION. It is worth noting, however, that the AMA GUIDES TO THE EVALUATION OF PERMANENT IMPAIRMENT 5TH EDITION addresses the connection between impairment derived from the GUIDES and the direct estimate of disability and the additional considerations necessary to determine the extent of disability:

“Impairment percentages derived from the *Guides* criteria should not be used as direct estimates of disability. Impairment percentages estimate the extent of the impairment on whole person functioning and account for basic activities of daily living, not including work. The complexity of work activities requires individual analyses. Impairment assessment is a necessary *first step* for determining disability.”⁴³

⁴² Appendix to Record p. 29, lines 19-25.

⁴³ *Id.* at 13.

The evidence in the record demonstrates a significant impact on the Claimant/Respondent's use of his back in the vocational setting. The Full Commission is not limited to the medical impairment rating alone in determining the extent of a claimant's disability. The Full Commission's Decision and Order in the instant matter is not arbitrary, nor is it based on surmise or conjecture. The Full Commission's Decision and Order should remain undisturbed on appeal.

III. THE APPELLANTS' RELIANCE ON *CLEMMONS* FOR THE POSITION THAT A FINDING OF PERMANENT AND TOTAL DISABILITY UNDER S.C. CODE § 42-9-30(21) REQUIRES A FINDING OF A CERTAIN PERCENTAGE IS MISPLACED, BUT IF IT IS NOT MISPLACED, IT IS HARMLESS ERROR AT WORST.

The Defendants/Appellants again point to *Clemmons*, but this time for the proposition that the Full Commission's finding that the Claimant/Respondent has suffered a disability of greater than 50% is error because, in their opinion, *Clemmons* requires a definite impairment rating to be stated by the Commission. Defendants/Appellants argue that because the *Clemmons* Court remanded the case for a finding of permanent impairment, therefore, the Full Commission committed an error of law in the instant matter for failing to state a definite impairment. Claimant/Respondent disagrees.

In *Clemmons*, the Full Commission had found that the Claimant had *not* suffered a disability of greater than 50%, and therefore, the Full Commission failed to address whether the defendants had rebutted the presumption of disability pursuant to S.C. Code § 42-9-30. After finding that the claimant *had* suffered at least 50% disability, the Court of Appeals remanded for a determination of impairment *and to address whether the Defendant had rebutted the presumption of disability*. The *Clemmons* Court holding does not establish a bright line rule that requires a precise finding of impairment. However, even if it did, the Full Commission's failure to make a

definite finding as to percentage of impairment is harmless at worst.

The Full Commission's award of disability of greater than 50% triggered the presumption of permanent and total disability pursuant to S.C. Code § 42-9-30(21). Having found that the Defendants/Appellants failed to rebut the presumption of disability—an issue that was clearly addressed by the Commission—whether the Full Commission found that Claimant/Respondent had suffered a definite impairment of 50% or 100% (or somewhere in between) to his back has absolutely no bearing on the outcome of this Claim. Even if *Clemmons* requires a finding of definite impairment, the error is harmless.⁴⁴ The Full Commission's Decision and Order should not be disturbed on Appeal.

IV. APPELLANTS FAILED TO REBUTT PRESUMPTION OF PERMANENT AND TOTAL DISABILITY; APPELLANTS ATTEMPTED TO RELY ON CLAIMANT'S PRIOR WORK HISTORY AND EDUCATIONAL BACKGROUND AT THE SINGLE COMMISSIONER HEARING AND THE FULL COMMISSION HEARING TO REBUTT THE PRESUMPTION OF PERMANENT AND TOTAL DISABILITY, HOWEVER, APPELLANTS NOW IMPROPERLY ARGUE THAT LOOKING TO CLAIMANT'S EDUCATIONAL BACKGROUND AND WORK HISTORY IN DETERMINING EXTENT OF DISABILITY UNDER S.C. CODE § 42-9-30 IS AN ERROR OF LAW.

Finally, Defendants/Appellants argue that the Full Commission (1) improperly infused wage loss considerations into the determination that Claimant/Respondent had suffered a disability of greater than 50%, and (2) that Defendants/Appellants have rebutted the presumption of permanent and total disability. Claimant/Respondent disagrees. For clarity, these two positions are addressed together.

⁴⁴ *State v. Chavis*, 412 S.C. 101, 115, 771 S.E.2d 336, 343 (2015) (“Error is harmless when it could not reasonably have affected the result of the trial.”)

Defendants/Appellants argue that the Full Commission improperly infused loss of earning capacity in looking to Claimant/Respondent's inability to speak English and part of Claimant/Respondent's work history in support of the award for disability of greater than 50%. This is patently false. Instead, Claimant/Respondent offers that the Full Commission's findings regarding Claimant/Respondent's inability to speak English and his prior work history specifically address Defendants/Appellants' arguments in support of a finding that Defendants/Appellants failed to rebutted the presumption of permanent and total disability under S.C. Code § 42-9-30(21). In fact, at the Single Commissioner Hearing, Defendants/Appellants argued:

"Dr. Math reviewed [the Claimant's Functional Capacity Evaluation] and imposed some -- some more stringent restrictions than the FCE indicated; that is what it is, as they say. So, but we still don't think this case rises to the level of permanent and total disability. Mr. Paulino is a -- is a fairly young man, a fairly well-educated man, albeit he was originally educated in the Dominican Republic, but he does have a four (4) year degree in information technology, worked as a software programmer; those are math-heavy kind of things, which is kind of -- even if there are some -- some obvious cultural and -- and language issues, would seem to me that those kind of math and science and engineering and technical based transferrable skills kind of transcend those issues to large degree. So, we don't think there is any evidence of vocational disability."⁴⁵

At the Single Commissioner Hearing, Defendants/Respondents argued that the Single Commissioner should consider what they now style as "improper earning capacity considerations" to determine that the Claimant/Respondent is not permanently and totally disabled. The Commission acknowledged the facts upon which the Defendants/Appellants relied in support of their rebuttal. However, the Commission was not persuaded.

Continuing, the Defendants/Appellants argue that the Commission erred in finding that the Defendants/Appellants failed to rebut the presumption of permanent and total disability. However, the Defendants did not offer *any* evidence to rebut the presumption of permanent and total

⁴⁵ Appendix to Record p. 28, line 17 through p. 29, line 9.

disability except for the evidence that the Defendants/Appellants now argue should not have been relied upon by the Commission. The Defendants/Appellants position is untenable. There is little if any evidence in the record to rebut the presumption of permanent and total disability and the Full Commission's Decision and Order should remain undisturbed on appeal.

CONCLUSION

The Full Commissions Findings and Conclusions of Law are supported by substantial evidence. Defendants/Appellants position regarding an error of law is unfounded. For the reasons stated, it is respectfully submitted that the Full Commission's Order should remain undisturbed.

Respectfully submitted,

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May 21, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE
SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION

Gene McCaskill, Commissioner
R. Michael Cambell, II, Commissioner
T. Scott Beck, Commissioner

SCWCC File No. 1508995

Appellate Case No. 2018-001964

Samuel Paulino, Claimant

Respondent,

v.

Diversified Coatings, Inc.,
Employer, and AmGuard Ins.
Co., Carrier

Appellant.

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SC Court of Appeals

CERTIFICATION

I certify that the Respondents' Final Brief complies with Rule 211(b), SCACR

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STATE OF SOUTH CAROLINA
In the Court of Appeal

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Gene McCaskill, Commissioner
R. Michael Campbell, II, Commissioner
T. Scott Beck, Commissioner

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MAR 14 2019
SC Court of Appeals

SCWCC File No. 1508995

Appellate Case No. 2018-001964

Samuel Paulino, Claimant.....Respondent

v.

Diversified Coatings, Inc., Employer, and AmGuard Ins. Co., Carrier.....Appellants.

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STATE OF SOUTH CAROLINA
In the Court of Appeal

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

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R. Michael Campbell, II, Commissioner
T. Scott Beck, Commissioner

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Appellate Case No. 2018-001964

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ARGUMENT

I. No reasonable minds would reach the conclusion the Commission reached based on the evidence in this case.

In his first argument, Paulino described the following: (1) the treatment of Dr. McHenry of Southeastern Neuro and Spine; (2) the functional capacity exam performed by Elite Physical Therapy; (3) the treatment and opinion of Dr. Jyoti Math, a pain management physician; (4) the independent medical opinion of Dr. Scott; and (5) the testimony of Paulino.¹ He argued that this evidence supports the Commission's determination of greater than 50% loss of use of the spine.

But the Commission, in its order, only gave a description and analysis of Paulino's testimony, including the direct examination conducted by his attorney, as well as the cross examination conducted by George Gallagher, the attorney for Employer and Carrier (hereinafter Carrier).² Although the final opinion of Dr. McHenry does make an appearance in the Commission's findings of fact, the whole person rating that he assigned to Paulino is irrelevant under section 42-9-30(21).³ What is more, medical opinion "regarding [Paulino's] permanent restrictions and future medical care were deferred to Dr. Jyoti Math, the inherited, authorized pain management specialist."⁴

Regarding the results of the FCE, Dr. Math had those results when she assigned a 12% spinal impairment and approved light duty work for Paulino.⁵ (The FCE, by the way, approved medium duty work for him, despite noting the difficulties Paulino had while completing the exam).⁶ The

¹ Respondent's Brief, pp. 7-11.

² R. pp. 5-9.

³ Appellant's Brief, p. 7 n. 9 (citing *Clemmons v. Lowe's Home Ctrs., Inc.*, 420 S.C. 282, 803 S.E.2d 268, 271 (2017) (internal citations omitted); see also R. p. 13 (Finding of Fact #7) (listing Dr. McHenry's whole person rating).

⁴ R. p. 13 (Finding of Fact #7).

⁵ R. p. 13 (Finding of Fact #8).

⁶ *Id.*

only additional restriction Dr. Math assigned was a prohibition of lifting more than 10 lbs.⁷ Though he would need work conditioning,⁸ Paulino could walk, climb, stand, sit, twist, and bend without limit.⁹

For some reason, however, the Commission determined that “[Paulino’s] work restrictions are extensive,”¹⁰ despite the ability to perform light duty work, not to mention the ability to walk, climb, stand, sit, twist, and bend without limit. It then determined that Paulino has “a greater than 50% [loss of use of his back].”¹¹ It supported this with the following: (1) “Claimant’s impairment ratings are very low based on the poor surgical result,”¹² and (2) “based on the medication list alone, Claimant has suffered a major disability.”¹³ The Commission did not reference any medical document or opinion—or any other type of evidence—to substantiate either of those statements.¹⁴ More problematic, the Commission does not explain why either one or both supports a determination of greater than 50% loss of use of Paulino’s back.¹⁵ The only other findings that give any insight into the Commission’s rationale for determining a greater than 50% loss of use of Paulino’s back include: (1) “[Paulino’s] [inability] to speak much or any English,”¹⁶ and (2) the fact that he “was a teller in a bank and repaired computers while living in the Dominican Republic.”¹⁷ Neither of which supports a determination of greater than 50% loss of use of the back, obviously.

⁷ R. p. 33.

⁸ *Id.*

⁹ *Id.* (Dr. Math does not place any restrictions on these activities).

¹⁰ R. p. 13 (Finding of Fact #8).

¹¹ R. p. 14 (Finding of Fact #12).

¹² R. p. 13 (Finding of Fact #9).

¹³ *Id.* (Finding of Fact #10).

¹⁴ *Id.* (Finding of Fact #9 and #10).

¹⁵ *Id.*

¹⁶ *Id.* (Finding of Fact #6).

¹⁷ *Id.* (Finding of Fact #5).

Instead, these are “wage loss” or “economic model” factors that may be relevant to establish “disability,” which the statute defines as the “incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment.”¹⁸ But these factors are irrelevant under a “medical model” determination of whether Paulino has sustained a greater than 50% loss of use of the back. Under the “medical model” of compensation, the nature and character of the injury controls.¹⁹ Section 42-9-30 proceeds under the “medical model” of compensation,²⁰ so Paulino’s inability to speak English and his work history are irrelevant.

Finally, even if a claimant can offer non-medical evidence of greater loss of use of a scheduled member than what the medical impairment rating denotes, which Appellants do not concede, Paulino has failed to offer any relevant evidence indicating he has lost more than 50% of the use of his back. As noted earlier, the Commission cites irrelevant “wage loss” or “economic” evidence to support its greater than 50% loss of use finding. This confuses “medical model” and “economic model” factors. Further, an impairment rating is the paramount factor for the Commission’s consideration, as shown by the Supreme Court’s focus upon the medical impairment ratings in *Clemmons*.²¹ The question becomes, what other evidence in this case, if any, justifies a greater than 12% spinal impairment? The answer is, none. If the medical provider’s impairment rating must form the substantial basis of a loss of use finding, as the Supreme Court indicated in

¹⁸ S.C. Code Ann. §42-1-120.

¹⁹ See *Stephenson v. Rice Services*, 323 S.C. 113, 473 S.E.2d 699 (1996) (“with scheduled injuries, compensation depends upon the character of the injury rather than loss of earnings”) (describing *Dunmore v. Brooks Veneer Co.*, 248 S.C. 326, 149 S.E.2d 766 (1966)).

²⁰ Appellant’s Brief, p. 10 n. 21 (citing *Dent v. E. Richland Cnty. Pub. Serv. Dist.*, 423 S.C. 193, 813 S.E.2d 886, 890 (Ct. App. 2018) (internal citation omitted) (Section 42-9-30 “conclusively relies” on medical evidence) (internal citation omitted)).

²¹ *Clemmons v. Lowe’s Home Ctrs., Inc.*, 420 S.C. 282, 803 S.E.2d 268, 270-72 (2017).

Clemmons, then secondary evidence of additional loss of use cannot supersede the proportion the rating bears to the final determination. Simply put, the 10-pound lifting restriction from Dr. Math, along with any other evidence of loss of use in the record, does not justify a finding of loss of use that is greater than four times the 12% impairment rating, especially as Claimant is approved for light duty work and can walk, climb, stand, sit, twist, and bend without limit.

All of which is to say that, none of what Paulino described in his brief provides substantial evidence of greater than 50% loss of use of his back, and the Commission did not cite any of it in support of its decision. Because “no reasonable minds would reach the conclusion that the [Commission] reached based on this evidence,”²² the Court of Appeals should reverse the decision in this case and order a determination of loss of use that is less than 50%.

II. *Clemmons* determined that medical evidence was conclusive when determining loss of use under section 42-9-30(21).

The second part of Paulino’s first argument concerns the type of evidence that is conclusive when determining loss of use under the scheduled member statute. Carrier contends medical evidence is conclusive, and it cited the Supreme Court²³ in support of that contention. In *Clemmons*, the Court referred only to medical evidence while reviewing the Commission’s determination of a Claimant’s loss of use of his back under section 42-9-30(21).²⁴ The Court rejected the Commission’s determination of less than 50% loss of use of the back, because no medical evidence supported that determination.²⁵ All the medical evidence supported a greater

²² Appellant’s Brief, p. 9 (“substantial evidence” is evidence that would enable reasonable minds to reach the same conclusion as the administrative agency).

²³ *Id.*, pp. 7-8.

²⁴ *Clemmons v. Lowe’s Home Ctrs., Inc.*, 420 S.C. 282, 803 S.E.2d 268, 270-72.

²⁵ *Id.*, 420 S.C. 282, 803 S.E.2d 268, 271.

than 50% loss of use of the back.²⁶ And this ruling occurred even though the Claimant in *Clemmons* had returned to his former position as a cashier.²⁷ Thus medical evidence regarding the degree of the Claimant's loss of use of his back was conclusive.

Understandably, Paulino disagrees with this reading of *Clemmons*. He first “offers that *Clemmons* stands for the narrow reading that medical evidence of a *regional impairment* of 50% or more to any region of the back *without any other evidence regarding impairment* is conclusive evidence so as to trigger the rebuttable presumption of permanent and total disability under S.C. Code [sic] §42-9-30(21).”²⁸ It's not clear why Paulino emphasized “regional impairment.” Dr. Math assigned a 12% regional impairment to the lumbar spine.²⁹ What is meant by “without any other evidence regarding impairment” is also unclear. What is clear, is that the medical evidence concerning the Claimant's loss of use of his back was conclusive in *Clemmons* and, consequently, did “trigger the rebuttable presumption of permanent and total disability under S.C. Code [sic] §42-9-30(21).”³⁰ That fact strongly indicates that, if one would have wanted to try to undermine the medical opinions in the case, other medical evidence that was contrary to those medical opinions would have been necessary.

Paulino “further offers, that *Clemmons* stands for the proposition that evidence of subsequent employment may be insufficient to rebut the presumption of permanent and total disability under §42-9-30(21).”³¹ But there is no “may” involved; it's obvious that a Claimant's employment is “insufficient to rebut the presumption of permanent and total disability under §42-9-30(21).” The

²⁶ *Clemmons v. Lowe's Home Ctrs., Inc.*, 420 S.C. 282, 803 S.E.2d 268, 271.

²⁷ *Id.*, 420 S.C. 282, 803 S.E.2d 268, 269-70.

²⁸ Respondent's Brief, p. 12 (emphasis in original).

²⁹ R. p. 33.

³⁰ Respondent's Brief, p. 12.

³¹ *Id.*

question is, why? The answer seems apparent: A Claimant's ability to work in his former position is irrelevant to the medical question concerning the degree to which he has lost the use of his back. That's why medical evidence regarding Claimant's loss of use was conclusive in *Clemmons*, even though the Claimant was working in his former capacity as a cashier.

Finally, Paulino cited *Sanders*, a 2006 Court of Appeals case, to oppose Carrier's reading of *Clemmons*. *Sanders*, Paulino contended, supports using other evidence, such as the Claimant's testimony, to overturn the opinion of medical experts concerning the degree to which a Claimant has lost the use of his back.³² A few points here. First, *Sanders* is a Court of Appeals case, and the Court of Appeals must follow the Supreme Court's precedent, not the other way around.³³ Second, *Sanders* occurred a decade before *Clemmons*. Third, a 2018 Court of Appeals decision indicates that medical evidence is conclusive under the scheduled member statute.³⁴ Fourth, although the Supreme Court (which was comprised of different members then) declined to review *Sanders* at the time it was decided, *Clemmons* determined that medical evidence was conclusive when reviewing an impairment rating assigned by the Commission. The latter (and later) Supreme Court decision determines the outcome in this case.

Furthermore, if Paulino's reading of *Clemmons* while considering *Sanders* is correct, then a claimant could prove loss of use of the back greater than 50% by using evidence other than medical evidence, but employers and carriers could not prove less than 50% loss of use via evidence other than medical evidence. That result is not only unjust but is also unsupported by the method of

³² Respondent's Brief, p. 12 (citing *Sanders v. MeadWestvaco Corp.*, 371 S.C. 284, 638 S.E.2d 66 (Ct. App. 2006)).

³³ *State v. Phillips*, 416 S.C. 184, 785 S.E.2d 448, 453 (2016) ("[I]t is incumbent upon the court of appeals to apply this Court's precedent.") (citing S.C. Const. art. V., §9).

³⁴ Appellant's Brief, p. 10 n. 21 (citing *Dent v. E. Richland Cnty. Pub. Serv. Dist.*, 423 S.C. 193, 813 S.E.2d 886, 890 (Ct. App. 2018) (internal citation omitted) (Section 42-9-30 "conclusively relies" on medical evidence) (internal citation omitted)).

analysis used in *Clemmons*. If lay evidence is not probative of loss of use when arguing that an impairment rating is less than 50%, then lay evidence is not probative of loss of use when arguing that an impairment rating is more than 50%.

Because all the relevant medical evidence points to a 12% spinal impairment, the Court of Appeals should reverse the decision in this case and order a determination of loss of use that is less than 50%.

III. Because “impairment” is separate from “disability” and because Dr. Math assigned a 12% spinal impairment rating, the word “disability” should not have entered the Commission’s order.

In the final part of Paulino’s first argument, he cites the AMA Guides to show an impairment rating is separate from the extent of disability.³⁵ The statute makes that clear, too: “[W]here there is fifty percent or more loss of use of the back [,] the injured employee shall be presumed to have suffered total and permanent disability and compensated under Section 42-9-10(B).”³⁶ A Claimant is presumed to have a “total and permanent disability” only after the Commission determines he has 50% or more loss of use of the back; in other words, until a Claimant has sustained 50% or more of the loss of use of his back, permanent and total disability should not be considered. As stated earlier, the degree of a Claimant’s loss of use of his back under the “medical model” is distinct from the extent of his disability under the “economic model.”

In this case, Dr. Math assigned a 12% spinal impairment. That is the only relevant medical evidence concerning Paulino’s loss of use of his back. Consequently, the word “disability” should not have entered the Commission’s order.

³⁵ Respondent’s Brief, p. 13.

³⁶ S.C. Code Ann. §42-930(21).

IV. The failure to assign a specific rating is not “harmless error.”

In *Clemmons*, the Supreme Court determined that the Claimant had lost “more than fifty percent of the use of his back.”³⁷ The Court then remanded the case “for a new hearing to determine [1] [Claimant’s] percentage of impairment and [2] whether the presumption of permanent and total disability under section 42-9-30(21) has been rebutted.”³⁸ Under the Supreme Court’s order, whatever percentage of impairment the Commission assigned, the Commission would have to address whether the presumption had been rebutted, yet the Court still required it to find a specific percentage of impairment. Because of this, Carrier maintains that the Commission’s failure to assign a specific percentage of impairment was error.

Paulino opposed Carrier’s position. He contended that, because the Commission already determined that Carrier failed to rebut the presumption of permanent and total disability, the Commission’s failure to assign a definite impairment rating “has absolutely no bearing on the outcome of this Claim”³⁹ and, therefore, is “harmless error.”⁴⁰

But a definite impairment rating didn’t have any “bearing on the outcome of [Clemmons’] claim,” either. The Court had already determined that the percentage of impairment was over 50%.⁴¹ Meaning no matter what percentage of impairment it assigned, the Commission would have to address the question concerning rebuttal of the presumption. Given that fact, one could argue that ordering a specific percentage of impairment was unnecessary and even irrelevant. But the Court in *Clemmons* did order the Commission to determine a specific percentage of impairment, in addition to ordering the Commission to address whether the Defendant had rebutted the

³⁷ *Clemmons v. Lowe’s Home Ctrs., Inc.*, 420 S.C. 282, 803 S.E.2d 268, 272.

³⁸ *Id.*

³⁹ Respondent’s Brief, p. 14.

⁴⁰ *Id.*

⁴¹ *Clemmons v. Lowe’s Home Ctrs., Inc.*, 420 S.C. 282, 803 S.E.2d 268, 272.

presumption. Because the Supreme Court has indicated that the Commission must assign a specific percentage of impairment, the Commission's failure to do so is not "harmless error."

The failure to assign a specific percentage of the loss of use of Paulino's back is also not "harmless error," because that finding is based on nothing but "surmise, speculation or conjecture."⁴² The Commission's determination of "greater than 50%" is an unknown percentage of loss of use that is greater than four times the medical impairment rating. Nothing substantiates the Commission's determination, which means it impermissibly rests on "surmise, speculation or conjecture" and, therefore, is not "harmless error."

V. The Commission's order indicates it did consider Paulino's inability to speak English and his work history while determining he had a greater than 50% loss of use of his back.

In its brief, Carrier argued that the Commission improperly infused wage loss considerations into its section 42-9-30 analysis.⁴³ Paulino contended that this is "patently false."⁴⁴ He argued that, "the Full Commission's findings regarding Claimant/Respondent's inability to speak English and his prior work history specifically address Defendants/Appellants' arguments in support of a finding that Defendants/Appellants failed to rebutted [sic] the presumption of permanent and total disability under S.C. Code [sic] § 42-9-30(21)."⁴⁵

⁴² *Clemmons v. Lowe's Home Ctrs., Inc.*, 420 S.C. 282, 803 S.E.2d 268, 271 ("Although a claimant's degree of impairment is usually a question of fact for the Commission, if all evidence points to one conclusion or the Commission's findings are based on surmise, speculation or conjecture, then the issue becomes one of law for the Court....") (internal citations and quotations omitted).

⁴³ Appellant's Brief, pp. 10-11.

⁴⁴ Respondent's Brief, p. 15.

⁴⁵ *Id.*

But the Commission's order did not say that.⁴⁶ Neither did the Single Commissioner's order.⁴⁷ In fact, the Findings of Fact section, which is where to locate Paulino's inability to speak English and his work history, only addressed Paulino's spinal impairment.⁴⁸ Nothing in that section addressed whether Carrier rebutted the presumption of permanent and total disability after Paulino was found to have greater than 50% loss of use of his spine.⁴⁹ And nothing explains how or why the Carrier failed (or did not fail) to rebut the presumption.⁵⁰ Carrier only learned that it did somehow fail to rebut the presumption in the Conclusions of Law section of the Commission's order.⁵¹ But, again, the Commission gave no explanation of how or why the Carrier failed to rebut it.⁵²

So no, it's not clear that the Commission didn't improperly infuse wage loss considerations into its section 42-9-30 analysis. And given how the Commission structured its Findings of Fact section, it seems like the Commission did consider Paulino's inability to speak English and his work history when determining that he had a greater than 50% spinal impairment. After all, that is the only determination made in the Findings of Fact section; the question regarding rebuttal of the subsequent presumption is not addressed. And permanent and total disability only becomes an issue after the Commission determines that the Claimant has "fifty percent or more loss of use of the back."⁵³

⁴⁶ R. pp. 12-15; specifically, *see* p. 14 (Conclusion of Law #3).

⁴⁷ R. pp. 9-12 (reciting order of Single Commissioner); specifically, *see* p. 11 (Conclusion of Law #6).

⁴⁸ R. pp. 12-14 (Order of full Commission); specifically, *see* p. 14 (Finding of Fact #12).

⁴⁹ R. pp. 12-14.

⁵⁰ *Id.*

⁵¹ R. p. 14 (Conclusion of Law #3).

⁵² *Id.*

⁵³ S.C. Code Ann. §42-9-30(21).

VI. Carrier did rebut the presumption of permanent and total disability.

Carrier concluded that it rebutted the presumption of permanent and total disability. Paulino argued the opposite position, though he did not provide any reasons to support it: "There is little if any evidence in the record to rebut the presumption of permanent and total disability and the Full Commission's Decision and Order should remain undisturbed on appeal."⁵⁴

Regardless of Paulino's unsupported contention, Carrier can give reasons to support its conclusion. First, the Form 14B, which Dr. Math completed and was in the record before the Commission, indicates Paulino can walk, climb, stand, sit, twist, and bend without limit.⁵⁵ Second, he can also perform light duty work.⁵⁶ Third, Paulino is a young man, "so there is no natural presumption that he could not adjust to new work [because] of his injury."⁵⁷ Finally, though the Commission was unimpressed by these facts, Paulino has a four-year degree from a college in the Dominican Republic and has worked as a computer repairman and as a bank teller; all of which indicates the skills and intellectual capacity necessary to perform light duty work in a suitable field of employment.

With all the above, Carrier rebutted the presumption of permanent and total disability.

CONCLUSION

Several errors of law, discussed here and in the first brief, support reversal of the Commission's decision. For example, as seen above, the Commission did not have substantial evidence to conclude Paulino had a greater than 50% spinal impairment. This is in addition to *Clemmons*, which indicates medical evidence is conclusive when determining impairment ratings; in this case,

⁵⁴ Respondent's Brief, p. 16.

⁵⁵ R. p. 33 (Dr. Math does not place any restrictions on these activities).

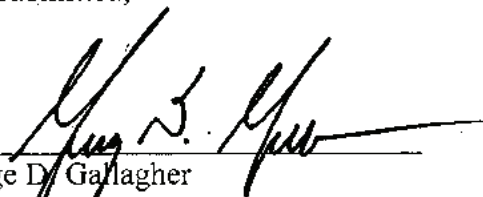
⁵⁶ *Id.*

⁵⁷ R. p. 28, lines 1-2; *see also* pp. 27-29 (discussing evidence that rebuts presumption of permanent and total disability).

the only relevant medical evidence supports a 12% spinal impairment. The Carrier also provided medical and other evidence that shows it rebutted the presumption of permanent and total disability. And although Paulino did not address the argument in his brief, the Commission's decision is arbitrary because it did not substantiate the basis of its greater than 50% spinal impairment rating with even one reason.⁵⁸

Carrier respectfully asks the Court of Appeals to remand the case and to order the Commission to assign a percentage of impairment that is less than 50%.

Respectfully submitted,



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⁵⁸ Appellant's Brief, p. 8.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Samuel Paulino, Claimant, Respondent,

v.

Diversified Coatings, Inc., Employer, and Amguard Ins.
Co., Carrier, Appellants.

Appellate Case No. 2018-001964

Appeal From The Workers' Compensation Commission

Unpublished Opinion No. 2022-UP-096
Heard November 3, 2021 – Filed March 9, 2022

REVERSED AND REMANDED

George D. Gallagher, of Speed, Seta, Martin, Trivett &
Stubley, LLC, of Columbia; and Kevin Desmond
Maroney, of Rogers Lewis Jackson Mann & Quinn, LLC,
of Columbia, both for Appellants.

Stephen N. Garcia, of Garcia Law Firm, LLC, of
Greenville, for Respondent.

PER CURIAM: In this workers' compensation case, Diversified Coatings, Inc. (Employer) argues the South Carolina Workers' Compensation Commission (the Commission) erred in affirming the single commissioner's order awarding Samuel

Paulino (Claimant) permanent and total disability under section 42-9-30(21) of the South Carolina Code (2015) for a work-related back injury. We reverse and remand.

We find the Commission erred in affirming the single commissioner's award to Claimant of permanent and total disability under the scheduled-member statute. *See Bass v. Isochem*, 365 S.C. 454, 467, 617 S.E.2d 369, 376 (Ct. App. 2005) ("The South Carolina Administrative Procedures Act (APA) establishes the standard for judicial review of decisions of the Workers' Compensation Commission."); S.C. Code Ann. § 1-23-380(5)(d) (Supp. 2021) ("[An appellate court] may reverse . . . [the Appellate Panel's] decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are . . . affected by [an] error of law . . ."). In pertinent part, the applicable subsection of the scheduled-member statute provides that a claimant is entitled to sixty-six and two-thirds percent of the average weekly wages (AWW) for three hundred weeks for a loss of use of the back that is forty-nine percent or less. § 42-9-30(21). Subsection twenty-one further states that claimants who suffer a loss of the use of the back that is fifty percent or greater are entitled to a rebuttable presumption of permanent and total disability and are entitled to sixty-six and two-thirds percent of the AWW for five hundred weeks. *Id.* The scheduled-member statute differs from general disability claims under section 42-9-10 of the South Carolina Code (2015) because loss of earning capacity is not necessary to prove disability; weekly compensation "is based *solely* on the character of the injury and not upon the earnings or earning capacity of the injured employee." *G.E. Moore Co. v. Walker*, 232 S.C. 320, 325, 102 S.E.2d 106, 108 (1958) (emphasis added); *see also Wigfall v. Tidelands Utils., Inc.*, 354 S.C. 100, 104, 580 S.E.2d 100, 102 (2003) ("[T]he medical model[] provides awards for disability based upon degrees of medical impairment to specified body parts.").

Here, the Commission erred in affirming the single commissioner's determination that Claimant's back is impaired greater than fifty percent because there is no medical evidence in the record that supported the single commissioner's findings. *See Clemmons v. Lowe's Home Ctrs., Inc.-Harbison*, 420 S.C. 282, 288, 803 S.E.2d 268, 271 (2017) (stating that a claimant's impairment is a question of fact for the Commission, but "if all the evidence points to one conclusion or the Commission's findings 'are based on surmise, speculation or conjecture, then the issue becomes one of law for the court'" (quoting *Polk v. E.I. duPont de Nemours Co.*, 250 S.C. 468, 475, 158 S.E.2d 765, 768 (1968))). Of particular significance is the single commissioner's finding that "Claimant's impairment ratings are very low based on the poor surgical result." To the contrary, Dr. Math gave the only

medical opinion regarding Claimant's impairment rating for his back and assigned a lower back impairment rating of twelve percent. Claimant's physical therapist opined that he could perform medium work duties that involved flexing and rotating his lumbar spine. Further, Dr. McHenry, Claimant's treating physician and surgeon, reported that Claimant's spine surgery was a success and the disc herniation and L3-4 extrusion were no longer present. Despite the surgery being a success, Claimant continued to complain of leg pain and Dr. McHenry noted that Claimant had persistent degenerative changes to his lumbar spine; however, Dr. McHenry also stated a subsequent MRI showed no impingement on Claimant's nerve that could cause leg pain. Although the independent orthopedic surgeon that evaluated Claimant, Dr. Scott, opined that Claimant's functional capacity evaluation results indicated he could not sustain workplace activities, Dr. Scott did not provide an impairment rating or offer any alternative level of activities that Claimant could perform—he merely disagreed with the results and stated he was willing to reevaluate Claimant. Because no evidence in the record indicates a "poor surgical result" as found by the single commissioner, we find the Commission erred in adopting this medical opinion of the single commissioner. *See Burnette v. City of Greenville*, 401 S.C. 417, 428–29, 737 S.E.2d 200, 206–07 (Ct. App. 2012) (finding when no evidence indicates a medical opinion or finding of fact of a single commissioner originated from a medical provider, such an opinion or finding is not supported by substantial evidence).

Further, because Claimant failed to rebut Dr. Math's twelve-percent impairment rating to his back with medical evidence, we find the Commission's findings of fact adopted from the single commissioner's order are inconclusive. *Cf. Mullinax v. Winn-Dixie Stores, Inc.*, 318 S.C. 431, 435, 458 S.E.2d 76, 78 (Ct. App. 1995) ("Where the medical evidence conflicts, the findings of fact of the Commission are conclusive."). "Although medical evidence 'is entitled to great respect,' the Commission is not bound by the opinions of medical experts and may disregard medical evidence in favor of other competent evidence in the record." *Burnette*, 401 S.C. at 427, 737 S.E.2d at 206 (quoting *Potter v. Spartanburg Sch. Dist.* 7, 395 S.C. 17, 23, 716 S.E.2d 123, 126 (Ct. App. 2011)); *see also Linen v. Rucson Const. Co.*, 286 S.C. 67, 69–70, 332 S.E.2d 211, 212 (1985) (upholding the Commission's award of fifty-percent impairment, despite medical evidence to the contrary, because the claimant testified exclusively to the pain associated with his injury and the burden it placed on his daily activities, and estimated that he suffered a seventy-five percent impairment); *Fields v. Owens Corning Fiberglas*, 301 S.C. 554, 556, 393 S.E.2d 172, 173 (1990) ("An award under the scheduled loss statute . . . is premised upon the threshold requirement that the claimant prove a loss, or loss of use of, a specific 'member, organ, or part of the body.'" (quoting

S.C. Code Ann. § 42-9-30(22) (2015)); *Walker*, 232 S.C. at 325, 102 S.E.2d at 108 (stating that compensation under the scheduled-member statute "is based solely on the character of the injury and not upon the earnings or earning capacity of the injured employee"). "However, '[w]hile a finding of fact of the [C]ommission will normally be upheld, such a finding may not be based upon surmise, conjecture, or speculation, but must be founded on evidence of sufficient substance to afford a reasonable basis for it.'" *Burnette*, 401 S.C. at 427–28, 737 S.E.2d at 206 (alterations in original) (quoting *Edwards v. Pettit Constr. Co.*, 273 S.C. 576, 579, 257 S.E.2d 754, 755 (1979)); see also *Grayson v. Carter Rhoad Furniture*, 317 S.C. 306, 309–10, 454 S.E.2d 320, 322 (1995) (affirming reversal of Commission's decision, which was supported by no evidence in the record). In this case, Claimant was the only lay witness to testify, and he only stated that his injury prevented him from driving, that he could not complete work duties for Employer at the same level he did before his injury, and that the functional capacity evaluation was physically less demanding than his job for Employer. Claimant also testified at length about his inability to find work because of his inability to speak English and lack of education. However, the character of the injury is material for determining compensation based on the impairment of a scheduled-member, not lost earnings or loss in earning capacity. See *Walker*, 232 S.C. at 325, 102 S.E.2d at 108 (stating that under the scheduled-member statute, "[t]he period during which the weekly payments are to continue is based solely on the character of the injury and not upon the earnings or earning capacity of the [claimant]"); *Clemmons*, 420 S.C. at 289, 803 S.E.2d at 271 (stating "the issue under the scheduled-member statute is not impairment as to the whole body, but rather it is the loss of use of a specific body part"). Because Claimant did not testify as to the character of his back injury, the specific ways his back injury prevents him from leading a normal life, the limitations the back injury places on his physical activities, and because he failed to present evidence of a lower back impairment rating greater than twelve percent, we find substantial evidence does not support the Commission's finding as to the scheduled-member. Cf. *Sanders*, 371 S.C. at 292, 638 S.E.2d at 70–71 (using a claimant's testimony regarding the character and extent of his back injury and the limitations the specific injury placed on his daily activities to refute expert medical evidence). Therefore, we find the Commission erred in affirming the single commissioner's conclusion that Claimant is permanently and totally disabled. See *id.* at 289, 638 S.E.2d at 69 (stating appellate courts may reverse the Commission if its findings or conclusions are clearly erroneous in light of the substantial evidence).

CONCLUSION

Based on the foregoing, the Commission's order is

REVERSED AND REMANDED.

WILLIAMS, C.J., MCDONALD, J., and LOCKEMY, A.J., concur.

RECEIVED

May 27 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE
SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION

Gene McCaskill, Commissioner
R. Michael Campbell, II, Commissioner
T. Scott Beck, Commissioner

SCWCC File No. 1508995

Appellate Case No. 2018-001964

Samuel Paulino, Claimant

Respondent,

v.

Diversified Coatings, Inc.,
Employer, and AmGuard Ins.
Co., Carrier

Appellant.

PETITION FOR REHEARING
(With Stricken Language)

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Attorney for Respondent

COMES NOW PLAINTIFF, by and through undersigned counsel, and files this, his Petition for Rehearing pursuant to Rule 221(a), SCACR, and in support of his Petition for Rehearing, Plaintiff respectfully submits the following as having been overlooked and/or misapprehended by the Court:

1. Although this Honorable Court states that the Commission erred in affirming the single commissioner's award of permanent total disability under the scheduled-member statute, the substantial evidence in the record supports the Commission's affirmation of the single commissioner's award of permanent and total disability under the scheduled member statute.
2. Although this Honorable Court states that the Commission erred in affirming the single commissioner's determination that the Claimant's back is impaired greater than fifty percent because there is no medical evidence in the record that supported the single commissioner's findings, there is substantial evidence in the record support the single commissioner's findings.
3. Although this Honorable Court states that the Claimant's treating physician, Dr. McHenry, reported that the Claimant's spine surgery was a success, there is no evidence in the record to support this Honorable Court's assertion that the Claimant's spine surgery was a success, and in fact, the record as a whole demonstrates anything but a successful surgical result.
4. Although this Honorable Court states that there is no evidence in the record indicating a poor surgical result and that as a result, the Commission erred in affirming the single commissioner's "medical opinion," to the contrary, there is indeed substantial evidence in the record to support a finding that the Claimant suffered a poor surgical result as

evidenced by the continued and persistent symptoms, limitations, restrictions, and difficulties Claimant suffered and continues to suffer following the surgical procedure to his spine.

5. Although this Honorable Court states that Claimant failed to rebut Dr. Math's twelve-percent impairment rating to his back with medical evidence, and therefore, the findings of fact adopted from the single commissioner's order are inconclusive, there is substantial evidence in the record to support the single commissioner's findings of fact as adopted by the Full Commission.
6. Although this Honorable Court states that the Claimant did not testify as to the character of his back injury, the specific ways his back injury prevents him from leading a normal life, and the limitations the back injury places on his physical activities, this Honorable Court seemingly overlooks the countless instances in which the medical evidence specifically documents and highlights the many ways that the Claimant's back injury prevents him from leading a normal life and the many the limitations that the back injury places on his physical activities.
7. Although this Honorable Court states that the Claimant failed to present evidence of a lower back impairment rating greater than twelve-percent and that substantial evidence does not support the Commission's finding as to the scheduled member, there is indeed substantial evidence in the record to support the Commission's finding as to the scheduled member.

WHEREFORE, Respondent requests that this matter be reexamined and reheard, and for any further relief this Court deems just and proper.

Garcia Law, LLC

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For Appellant

March 22, 2022

Greenville, SC

MEMORANDUM

In support of his Petition for Rehearing, and pursuant to Rule 221(a), SCACR and Rule 240(c)(2), SCACR, Plaintiff respectfully submits the following as having been overlooked and/or misapprehended by the Court:

1. Although this Honorable Court finds that the Commission erred in affirming the Single Commissioner's award of permanent total disability under the scheduled-member statute, the substantial evidence in the record supports the Commission's affirmation of the Single Commissioner's award of permanent and total disability under the scheduled-member statute.
2. Although this Honorable Court finds that the Commission erred in affirming the Single Commissioner's determination that the Claimant's back is impaired greater than fifty percent because there is no medical evidence in the record that supported the single commissioner's findings, there is substantial evidence in the record to support the Single Commissioner's findings.
3. Although this Honorable Court finds that the Claimant's treating physician, Dr. McHenry, reported that the Claimant's spine surgery was a success, there is no evidence in the record to support this Honorable Court's assertion that the Claimant's spine surgery was a success, and in fact, the record as a whole demonstrates anything but a successful surgical result.
4. Although this Honorable Court finds that there is no evidence in the record indicating a poor surgical result and that as a result, the Commission erred in affirming the Single Commissioner's "medical opinion," to the contrary, there is indeed substantial *medical* evidence in the record to support a finding that the Claimant suffered a poor surgical

result as evidenced by the continued and persistent symptoms, limitations, restrictions, and difficulties Claimant suffered and continues to suffer following the surgical procedure to his spine.

5. Although this Honorable Court finds that Claimant failed to rebut Dr. Math's twelve-percent impairment rating to his back with *medical* evidence, and therefore, the findings of fact adopted from the Single Commissioner's order are inconclusive, there is substantial evidence in the record to support the Single Commissioner's findings of fact as adopted by the Full Commission.
6. Although this Honorable Court finds that the Claimant did not testify as to the character of his back injury, the specific ways his back injury prevents him from leading a normal life, and the limitations the back injury places on his physical activities, this Honorable Court seemingly overlooks the countless instances in which the *medical* evidence specifically documents and highlights the many ways that the Claimant's back injury prevents him from leading a normal life and the many the limitations that the back injury places on his physical activities.
7. Although this Honorable Court finds that the Claimant failed to present evidence of a lower back impairment rating greater than twelve-percent and that substantial evidence does not support the Commission's finding as to the scheduled member, there is indeed substantial evidence in the record to support the Commission's finding as to the scheduled member.

DISCUSSION

This Honorable Court has stated various findings and opinions that the undersigned now respectfully asserts are suggestive of the Court having misapprehended and/or overlooked specific points in the arguments of the parties and the Record on Appeal. The undersigned now argues that this Honorable Court, in making the aforementioned findings, (1) misapprehended and/or overlooked the medical evidence in the record as a whole, (2) misapprehended and/or overlooked the medical definition of surgical result or outcome, (3) misapprehended and/or overlooked the constraints placed on this Honorable Court by the standard of review, (4) misapprehended and/or overlooked S.C. Code Ann. 1-23-300(4) granting administrative agencies the statutory authority to utilize experience, technical competence, and specialized knowledge in the evaluation of evidence, and (5) that this Honorable Court is guilty of the same error of which it now accuses the Single Commissioner and Full Commission—adopting a medical opinion that is not supported by *any* evidence in the Record. The undersigned has stated the various findings that have been purportedly misapprehended and/or overlooked in chronological order in his Petition for Rehearing as well as at the onset of this Memorandum. However, for the purposes of continuity in arguments and/or positions, the undersigned will address these arguments without reference to their chronological appearance in this Honorable Court’s Opinion.

3. **Although this Honorable Court states that the Claimant's treating physician, Dr. McHenry, reported that the Claimant's spine surgery was a success, there is no evidence in the record to support this Honorable Court's assertion that the Claimant's spine surgery was a success, and in fact, the record as a whole demonstrates anything but a successful surgical result.**
4. **Although this Honorable Court states that there is no evidence in the record indicating a poor surgical result and that as a result, the Commission erred in affirming the single commissioner's "medical opinion," to the contrary, there is indeed substantial evidence in the record to support a finding that the Claimant suffered a poor surgical result as evidenced by the continued and persistent symptoms, limitations, restrictions, and difficulties Claimant suffered and continues to suffer following the surgical procedure to his spine.**

This Honorable Court has singled out the Single Commissioner's finding (and the Full Commission's subsequent affirmation thereof) that "Claimant's impairment ratings are very low based on the poor surgical result" as having "particular significance." This Honorable Court further opined there is no evidence in the record that would indicate a poor surgical result to support such a finding by the Single Commissioner and affirmation by the Full Commission. In support of this opinion, this Honorable Court has pointed to three specific points: (1) that Dr. Math gave the only medical opinion regarding Claimant's impairment rating for his back and assigned a low back impairment of twelve percent, (2) Claimant's physical therapist opined that he could perform medium work duties that involved flexing and rotating his lumbar spine, (3) Claimant's treating physician and surgeon, Dr. McHenry, reported that Claimant's spine surgery "was a success" and the disc herniation and L3-L4 extrusion were no longer present, and (4) that Dr. McHenry stated a subsequent MRI showed no impingement on the Claimant's nerve that could cause leg pain. It is respectfully submitted that this Honorable Court has misapprehended and/or overlooked the medical evidence, medical opinions, layperson testimony, and standard of review.

Whether Dr. Math gave the only medical opinion regarding Claimant's impairment rating for his back and assigned a low back impairment of twelve percent.

Simply put, Dr. Math is *not* the only physician that stated their medical opinion regarding the Claimant's impairment rating to the back (twelve percent to the lumbar spine). In fact, on April 22, 2016, Dr. McHenry rated the Claimant at thirteen percent *to the whole person* while deferring to the Functional Capacity Evaluation on the issue of the Claimant's resultant restrictions and/or limitations.¹ Dr. Math indeed assigned a rating to the Claimant of twelve percent *to the lumbar spine* on December 6, 2017.² However, Defendants admitted that Claimant was "entitled to PPD compensation for loss of use of the back based on the thirteen-percent whole person impairment rating assigned by the treating neurosurgeon (Dr. McHenry)."³ Defendants also admitted that Claimant had sustained a seventeen-percent regional impairment to the lumbar spine.⁴ Defendants, on yet another occasion, admitted that Claimant had sustained a seventeen-percent impairment to the lumbar spine as per Dr. McHenry and a sixteen-percent impairment to the lumbar spine as per Dr. Math.⁵ Defendants also admitted that the Claimant had sustained a "thirteen-percent whole person impairment rating which clearly converts under the AMA Guides, the multiplier factor that you use, that that translates into seventeen-percent."⁶ Defendants further admitted that the Claimant had sustained a "seventeen-percent lumbar regional spine impairment

1 Appendix to Record on Appeal, pp. 91-92.

2 Appendix to Record on Appeal, pp. 280, 288.

3 Record on Appeal, p. 18, paragraph 2.

4 Record on Appeal, pp. 19 through 20.

5 Record on Appeal, p. 24, 2nd full paragraph; *see also* p. 25 and p. 26.

6 Appendix to Record on Appeal, p. 67, lines 11 through 15.

as the baseline.”⁷ Defendants, even further, admitted that “the rating was... seventeen percent.”⁸ Respectfully, this Honorable Court has misapprehended and/or overlooked the record as a whole in determining that the only medical opinion regarding the Claimant’s impairment rating for his back originated from Dr. Math. Dr. McHenry’s rating in conjunction with the admission(s) by the Defendants, denotes, at a minimum, competing medical opinions of twelve percent to the lumbar spine, thirteen percent to the lumbar spine, sixteen percent to the lumbar spine, and seventeen percent to the lumbar spine.

Whether Claimant’s physical therapist opined that he could perform medium work duties that involved flexing and rotating his lumbar spine.

Respectfully, there is not a single medical note or opinion in the record as whole that originates from the *Claimant’s* physical therapist stating that the Claimant could perform medium work duties. In fact, the Claimant attended twelve planned visits of physical therapy from September 3, 2015 to November 19, 2015 post-surgery.⁹ The Claimant was discharged by his physical therapist with the assessment that he had “not progressed as anticipated and pain has been a limiting factor... even [in-clinic] PT has not been able to gain any increase[d] range.”¹⁰ Because this Honorable Court has not cited the Record in support of this highlighted finding of fact that Claimant’s physical therapist opined that he could perform medium work duties, the undersigned operates under the assumption that in stating this finding of fact, this Honorable Court is referring to the Functional Capacity Evaluation performed on November 20, 2017.¹¹

7 Appendix to Record on Appeal, p. 69, lines 6 through 8.

8 Appendix to Record on Appeal, p. 70, lines 20 through 21.

9 Appendix to Record on Appeal, p. 138 through 197.

10 Appendix to Record on Appeal, p. 192.

11 Appendix to Record on Appeal pp. 95 through 100, and Second Appendix to Record on Appeal pp. 2 through 4.

It should be noted that the Claimant testified that the *total amount of time* that he spent performing this Functional Capacity was approximately two hours and twenty minutes.¹² The Functional Capacity Evaluation, performed on November 20, 2017, was a focused evaluation aimed only at determining whether the Claimant had achieved maximum medical improvement¹³ and to determine the Claimant's ability to return to work.¹⁴ The Claimant did *not* receive treatment or recommendations from this physical therapist. The Claimant did *not* establish a long-standing relationship with this physical therapist, either. In essence, the physical therapist evaluated the Claimant over a two-hour-and-twenty-minute period and gave her opinion regarding the Claimant's physical demand capacity. It is respectfully submitted that this Honorable Court may have misapprehended and/or overlooked the nature of the relationship between the Claimant and the therapist that performed the Functional Capacity Evaluation, and in turn, misapprehended and/or overlooked the weight that should be given to the results/findings of Functional Capacity Evaluation itself.

It is also respectfully submitted that this Honorable Court may have overlooked the full opinion of the therapist that performed the functional capacity evaluation. This Honorable Court has stated, as fact, that the Claimant could perform medium work duties that involved flexing and rotating his lumbar spine. Again, because there is no specific citation of the Record to signal where this Honorable Court derived this stated fact, and although the undersigned does not agree that the Record supports such a finding of fact by this Honorable Court, the undersigned continues to operate under the aforementioned assumption that this Honorable Court is relying on page three (3) of the Second Appendix to the Record on Appeal. However, this very page specifically states

12 Appendix to Record on Appeal, p. 48, lines 10 through 12.

13 Appendix to Record on Appeal, p. 95, 276.

14 Appendix to Record on Appeal, p. 280.

that the Claimant “was noted to have decreased range of motion with lumbar/trunk rotational and flexion movements, and when lifting floor to waist with decreased body mechanics to decrease weight bearing on the [right lower extremity]...” The report also states that Claimant had max lumbar flexion of 50%, max lumbar extension of 50% and max thoracic rotation of 75% left and right.¹⁵ Even further, the Claimant’s physician, Dr. Math, evaluated the results of the Functional Capacity Evaluation, disagreed as to whether the Claimant could return to work,¹⁶ and assigned permanent physical limitations of light work duty with no lifting of greater than ten pounds.¹⁷ The Functional Capacity Evaluation Report is replete with statements that paint a much bleaker picture than that which this Honorable Court states as fact (i.e. the ability to perform medium work duties that involved flexing and rotating his lumbar spine). For instance, the report states:

- The Claimant “[a]mbulates with cane in his LEFT hand, decreased stances time on [right lower extremity], decreased [right] hip/knee flexion in swing phase, overall antalgic gait pattern.”¹⁸
- Claimant “reported low back and hip pain with all MMT testing on R LE, and increased pain with MMT of Left Hip.”¹⁹
- For the simple task of walking, “[a]erobic capacity was unable to be determined because of intense pain and antalgic gait on treadmill... patient was unable to tolerate the 5% grade and the minimum 2.0mph walking speed to complete the test. Pt was able to walk the 20min at 1.5mph with significant compensations... the following compensations were observed: decreased stance time on R LE creating asymmetrical stride length, decreased R hip/knee flexion in swing phase, labored breathing and mild sweating, forward flexed hip/trunk, B midfoot strike instead of heel strike, overall antalgic gait pattern, 8/10 low back pain reported after.”²⁰
- Claimant “required the use of [upper extremities] on chair to return to standing, multiple attempts made without use of furniture that results in short drop back

15 Appendix to Record on Appeal, p. 98.

16 Appendix to Record on Appeal, p. 280.

17 Appendix to Record on Appeal, p. 288.

18 Appendix to Record on Appeal, p. 97.

19 *Id.*

20 Appendix to Record on Appeal, p. 99.

to ground, [Claimant] was only successful after using [upper extremities] on chair base to return to standing.”²¹

This list is *not* exhaustive. The portions of the Record cited have even more detail regarding the Claimant’s physical condition that directly contradicts the finding of fact by this Honorable Court that the Claimant *could* perform medium work duties that involved flexing and rotating his lumbar spine. Respectfully, it is submitted that this Honorable Court overlooked the Record as a whole—and even the essence of the Functional Capacity Evaluation itself—in finding as fact that the Claimant could perform medium work duties. Further, it is respectfully submitted that this Honorable Court overlooked and/or misapprehended the medical opinion of Dr. Math, who opined that the Claimant suffered permanent physical limitations of light duty with no lifting of greater than ten pounds irrespective of the findings contained within the Functional Capacity Evaluation.²²

Whether Claimant’s treating physician and surgeon, Dr. McHenry, reported that Claimant’s spine surgery “was a success” and the disc herniation and L3-L4 extrusion were no longer present, and the implication of Dr. McHenry stating that a subsequent MRI showed no impingement on the Claimant’s nerve that could cause leg pain.

Respectfully, the undersigned is particularly and especially concerned that this Honorable Court has misapprehended and/or overlooked the evidence in the record as a whole in determining that Dr. McHenry “reported that the Claimant’s spine surgery was a success and the disc herniation and L3-4 extrusion were no longer present.” To the best of the undersigned’s knowledge, the word “success” does not appear in the Record *at any time*, and certainly not for the purpose of describing

21 Appendix to Record on Appeal, p. 100.

22 Appendix to Record on Appeal, p. 288.

the Claimant's surgical result. To the contrary, the surgeon, Dr. McHenry, stated, "Patient is 8 weeks [status post] L3-4 microdiscectomy... patient has just not done as expected in the post-op period."²³ It is offered to this Honorable Court that the Record as whole is not consistent with this Court's finding that the Claimant's spine surgery was a success. It is also offered to this Honorable Court that the finding that "a subsequent MRI showed no impingement" has no bearing whatsoever on whether the surgical procedure can be considered a success or failure. The undersigned further offers that the Record as a whole supports the Single Commissioner's finding and the Full Commission's affirmation that the Claimant suffered a "poor surgical result." The discrepancy between the undersigned's assertion and this Honorable Court's finding of fact and/or opinion appears to turn on the definition of "success" and the understanding of success criteria for surgical procedures. I would respectfully request that this Honorable Court take notice of the plain meaning of the Single Commissioner's and the Full Commission's intended use of the word "result". Merriam-Webster defines "result" (noun) as "something that results as a consequence, issue, or conclusion." Respectfully, it is far more reasonable to conclude, that by the use of the word "result", the Single Commissioner and Full Commission were concerned with the "result" as it pertained to the alleviation of the Claimant's symptoms and not as it pertained to whether the surgical procedure successfully removed the compression from the Claimant's nerve.

In applying the aforementioned definition to the Claimant's surgical outcome (or result), it is clear that the Claimant indeed suffered a "poor surgical result" as found by the Single Commissioner and affirmed by the Full Commission. Respectfully, there is little, if anything, in the Record to support any other finding. In fact, from a logical standpoint, it simply would not be reasonable to interpret the Single Commissioner's and the Full Commission's finding that the

²³ Appendix to Record on Appeal, p. 116.

Claimant suffered a poor surgical result as anything but that the Claimant's *outcome* was poor based on the continued difficulties and permanent nerve damage that the Claimant suffers.

This Honorable Court's Opinion appears to infer that because Dr. McHenry, in reviewing the MRI performed on February 15, 2017, opined that the disc herniation and extrusion at L3-4 is no longer present, *that therefore*, the surgical result was successful. That is a clear misapprehension of the purpose of the MRI study altogether. The purpose of the study was to determine whether the Claimant would benefit from further surgical intervention.²⁴ Because the MRI did not show any further compression of the spine that would alleviate symptoms, a second surgery was not recommended. However, that is *not* evidence of a successful surgical outcome or result.

That leads us to the discussion regarding the Claimant's permanent nerve damage and the inferences made by this Honorable Court. This Honorable Court's finding(s) appears to infer that because Dr. McHenry opined that the MRI showed no impingement on the Claimant's nerve that could cause leg pain, that somehow, that opinion suggests that either the Claimant had a successful surgical result, that the Claimant no longer suffered the symptoms and/or condition (radiculopathy) that hoped to be resolved by the surgical procedure, or both. Again, that is a clear misapprehension in the understanding of the definition of success or failure of a surgical procedure, and more importantly, that is a clear misapprehension of Dr. McHenry's stated opinion. Dr. McHenry wanted to determine whether any further surgical intervention was indicated. As we have already established, Dr. McHenry opined that the Claimant would not benefit from further surgical intervention.²⁵ However, what appears to be overlooked is that Claimant suffered permanent nerve

²⁴ Appendix to Record on Appeal, p. 131 ("I do not think [Claimant] would benefit from further surgical intervention.")

²⁵ Appendix to Record on Appeal, p. 131 ("I do not think [Claimant] would benefit from further

root damage as a result of the previously existent nerve root impingement that was corrected by the L3-4 laminectomy performed in July of 2015. The medical evidence in the Record supports the position that Claimant suffered permanent nerve root damage irrespective of whether the MRI performed on February 15, 2017 showed that the L3-4 extrusion was no longer present, to wit:

- Dr. McHenry continued to prescribe **neuropathic pain medication** to help control the symptoms associated with the Claimant's permanent nerve damage.²⁶
- Dr. McHenry noted "straight leg raise positive on the right with radicular pain to the foot."²⁷
- Dr. Math opined that Claimant would require chronic pain management in the form of pain medication. **Neuropathic medication**, muscle relaxants,. Interventions, like epidural steroid injection. **He may also be candidate for spinal cord stim P for his chronic right radiculopathy.**²⁸ (Emphasis added.)
- Dr. McHenry never once questioned the origin of the Claimant's continued radicular symptoms—and quite frankly, *not a single medical provider questioned the Claimant's honesty or credibility regarding his presentation of pain... and neither did the Commission... and neither did the Defendants.*

Insomuch as this Honorable Court's Opinion infers that because Dr. McHenry opined that the MRI showed no impingement on the Claimant's nerve that could cause leg pain, therefore, the Claimant had a successful surgical result and/or that the Claimant no longer suffered the symptoms and/or condition (radiculopathy) that was expected to be resolved by the surgical procedure, it is respectfully submitted that this Honorable Court misapprehended or overlooked the record as a whole in reaching said finding.

The Single Commissioner and Full Commission, by way of affirmation, relied on substantial evidence in the record as a whole to support the finding that the Claimant suffered a

surgical intervention.")

26 Appendix to Record on Appeal, p. 131.

27 Appendix to Record on Appeal, p. 131.

28 Appendix to Record on Appeal, p. 280.

poor surgical result. This finding was not merely an opinion based on surmise, conjecture, or speculation, but arguably, an unopposed, medical fact. The undersigned recognizes that this Honorable Court may have their own opinion regarding the interpretation of the evidence in the record, however, under the substantial evidence standard of review, this Court may not substitute its judgment for that of the Commission as to the weight of the evidence on questions of fact, but may only reverse where the decision is affected by an error of law.²⁹ In the instant matter, although the Claimant argues that there is no evidence in the Record to support a finding by this Honorable Court that the Claimant's surgical outcome was successful, even if there was evidence to that effect, there is *also* substantial evidence in the record to support a finding that the Claimant suffered a poor surgical result. Even if this Honorable Court disagrees with the Single Commissioner and the Full Commission as to the finding that the Claimant suffered a poor surgical result, this Honorable Court is bound by the standard of review and may not substitute its judgment for that of the Full Commission. Even more so, it is respectfully submitted that by finding that that the Claimant's surgery was "successful", this Honorable Court is guilty of the same error of which it now accuses the Single Commissioner and Full Commission—adopting a medical opinion that is not supported by *any* evidence in the Record. There is not a single medical provider nor is there single scintilla of evidence in the record to support a finding that the Claimant's surgical procedure was successful—by any metric.

²⁹ *Potter v. Spartanburg School District*, 395 S.C. 17, 22, 716 S.E.2d 123, 126 (Ct.App. 2011)(citing *Stone v. Traylor Bros.*, 360 S.C. 271, 274, 600 S.E.2d 551, 552 (Ct. App. 2004).

5. **Although this Honorable Court states that Claimant failed to rebut Dr. Math's twelve-percent impairment rating to his back with medical evidence, and therefore, the findings of fact adopted from the single commissioner's order are inconclusive, there is substantial evidence in the record to support the single commissioner's findings of fact as adopted by the Full Commission.**
6. **Although this Honorable Court states that the Claimant did not testify as to the character of his back injury, the specific ways his back injury prevents him from leading a normal life, and the limitations the back injury places on his physical activities, this Honorable Court seemingly overlooks the countless instances in which the *medical evidence* specifically documents and highlights the many ways that the Claimant's back injury prevents him from leading a normal life and the many the limitations that the back injury places on his physical activities.**
7. **Although this Honorable Court states that the Claimant failed to present evidence of a lower back impairment rating greater than twelve-percent and that substantial evidence does not support the Commission's finding as to the scheduled member, there is indeed substantial evidence in the record to support the Commission's finding as to the scheduled member.**

It is respectfully submitted that this Honorable Court misapprehended or overlooked the Record as a whole in finding that the "Claimant failed to rebut Dr. Math's twelve-percent rating to his back with medical evidence" and that the Single Commissioner's finding and Full Commission's affirmation is inconclusive. In reaching this finding, this Honorable Court appears to dismiss the medical evidence within the Record, but leaves the door open for the possibility that Dr. Math's twelve-percent rating can be rebutted with layperson testimony. Although this Honorable Court eventually goes on to find that the Claimant's lay testimony does *not* rebut Dr. Math's twelve-percent rating, the Court *does* cite various examples of relevant layperson testimony that could be used to rebut the medical evidence in the Record, to wit:

- Where Claimant testified exclusively to the pain associated with his injury and the burden it placed on his daily activities;
- Compensation is based solely on the character of the injury and not upon the earnings or earning capacity of the injured employee;

- The issue under the scheduled-member statute is not impairment as to the whole body, but rather it is the loss of use of a specific body part;
- The specific ways a Claimant's back injury prevents him from leading a normal life; and
- The limitations the back injury places on the Claimant's physical activities;

This Honorable Court found that the Claimant failed to present evidence in the form of layperson testimony that highlighted the aforementioned points so as to rebut Dr. Math's twelve-percent rating to the back. This Honorable Court further found that the Claimant failed to present evidence of a lower back impairment rating greater than twelve percent, and as a result, substantial evidence does not support the Commission's finding as to the scheduled member of a lower back impairment rating of greater than twelve percent.³⁰ It is respectfully submitted that this Honorable Court has misapprehended and/or overlooked the *medical evidence* in the Record as a whole that specifically addresses the very examples that this Court found was *not* presented as layperson testimony. In addressing the aforementioned medical evidence that this Honorable Court has opined was *not* offered as layperson testimony, I will limit the discussion to only those subjective and objective observations and opinions within the Record regarding the Claimant's limitations that prevent him from living a normal life and that are noted *after* the date of maximum medical improvement. In doing so, the inference is that any continuing said issues, limitations, and restrictions existed at the time that the Single Commissioner and Full Commission made their findings.

On the Claimant's last visit with the surgeon, Dr. McHenry, various observations, both

³⁰ Note that Claimant, within this Petition and Memorandum, has already argued that the evidence establishes that there were competing ratings of twelve percent, thirteen percent, sixteen percent, and seventeen percent.

objective and subjective, were noted in the medical notes: (1) positive for activity change and fatigue, (2) positive for shortness of breath, (3) positive for palpitations, (4) positive for difficulty urinating, (5) positive for back pain and gait problems, (6) positive for sleep disturbances and dysphoric mood, (7) sitting straight leg raise positive on the right with radicular pain to the foot, (8) leg pain, right, (9) pain of back and right lower extremity, (10) muscle weakness, (11) difficulty walking, (12) back stiffness, and (13) chronic low back pain.³¹ On the Claimant's last visit in the Record with the pain management physician, Dr. Math, various observations, both objective and subjective, were noted in the medical notes: (1) patient reports that he tried his best during the FCE, but the pain aggravated after the FCE was completed for next couple of days is afraid he cannot go back to work, (2) patient reports persistent pain in the right lower extremity in L5 distribution, (3) patient reports that his pain is activity limiting, (4) patient feels his pain is not adequately controlled, (5) patient is concerned that he is not able to participate in his daily activities due to the pain, (6) considering the duration of the pain, most likely he will have chronic pain issues (tearful when discussing), (7) pain score of 6 (scale of 1-10), (8) pain limitations: general activity, (9) pain interventions: medications, (10) exhibits tenderness on musculoskeletal examination, (11) ambulates with cane, (12) has decreased stance and right lower extremity Lumbar flexion is up to 40-50° lumbar extension is 5° causes severe pain, (13) tenderness over right lower lumbar paraspinal muscles, (14) reflexes 1+ at bilateral knee symmetrically absent at ankle, (15) plantars are downgoing, (16) straight leg test causes pain at the back of the knee, (17) slightly impaired sensation on the lateral border of the right foot, (18) will require chronic pain management in the form of pain medication, neuropathic medication, muscle relaxants, epidural steroid injections, (19) candidate for spinal cord stimulator for chronic right radiculopathy, and

31 Appendix to Record on Appeal, pp. 130 through 134.

(20) permanent physical limitations of no lifting greater than 10 pounds.³² The Claimant's Functional Capacity Evaluation is even more indicative of the how the Claimant's injury prevents him from leading a normal life and the limitations that the injury has placed on his daily activities (and although some of these limitations have already been highlighted in this memorandum, it deserves repeating, while keeping in mind that these are *all* observations of the evaluator and *not* subjective complaints by the Claimant): (1) ambulates with cane in LEFT hand, (2) decreased stance time on right lower extremity, (3) decreased right hip/knee flexion in swing phase, (4) overall antalgic gait pattern, (5) lumbar flexion of 50%, (6) lumbar extension of 50%, (7) thoracic rotation left and right of 75%, (8) aerobic capacity unable to be determined because of intense pain and antalgic gait on treadmill, (9) unable to tolerate 5% grade and minimum 2.0 MPH walking speed to complete test, (10) able to walk 1.5 MPH with significant compensations, (11) decreased stance time on right lower extremity creating asymmetrical stride length, (12) decreased right hip and knee flexion in swing phase, (13) labored breathing, (14) forward flexed hip and trunk, (15) bilateral midfoot strike instead of heel strike, (16) overall antalgic gait pattern, (17) 8/10 low back pain reported after walking test, (18) frequent weight shift on the left side, (19) numbness down right lower extremity to foot as standing progressed, (20) weight shifted on left side with overhead activity, (21) heavy wight shift onto left lower extremity while lifting floor to waist, (22) increased trunk and hip flexion while lifting floor to waist, (23) increased extension to low back with waist to overhead lifting, (24) decreased lumbar curve reversal with 20 repetitions of lumbar flexion, (25) hands reached only top of shit with repetitive lumbar flexion, (26) only able to rotate 75% lumbar range of motion, (27) elbows extended with double carry of 100 feet, (28) increased lumbar extension with double carry of 100 feet, (29) mild labored breathing with double carry of 100 feet,

³² Appendix to Record on Appeal, pp. 277 through 288.

(30) required use of upper extremities on chair to return to standing, (31) multiple attempts to return to standing without use of furniture resulted in a short drop back to the ground, (32) patient was only successful in returning to standing after using upper extremities on chair base to return to standing, (33) 6/10 low back pain reported after transfer test, (34) high pain focus noted according to Million Visual Analog Scale, (35) decreased range of motion noted with lumbar and trunk rotational and flexion movements, (36) decreased body mechanics to decrease weight bearing on right lower extremity when lifting floor to waist, (37) aerobic capacity was unable to be determined due to inability to complete test due to safety concerns associated with antalgic gait pattern while walking at the required speed and incline.³³ With reference to just three medical notes totaling just twenty three pages—of a Record that contains nearly one hundred fifty pages of medical notes—the Claimant has identified seventy separate points of medical evidence that specifically demonstrates the character of the Claimant’s back injury (painful, limited range of motion, etc.), the specific ways his back injury prevents him from leading a normal life (labored breathing, difficulty standing, shortness of breath, limited range of motion, high pain focus, etc.), and the limitations the back injury places on his physical activities (difficulties with even slow walking, no lifting of greater than 10 pounds without significant pain, antalgic gait, altered heel strike, etc.).

Following its finding that (1) the Claimant has failed to present layperson testimony rebutting the 12-percent impairment assigned by Dr. Math, and further, (2) following its finding that the Claimant has failed to testify as to the specific ways his back injury prevents him from leading a normal life and the limitations the back injury places on his physical activities, and finally, (3)

33 Appendix to Record on Appeal, pp. 95 through 100; *see also* 2nd Appendix to Record on Appeal pp. 3 and 4.

following its finding that Claimant failed to rebut Dr. Math's 12-percent rating with medical evidence, it is respectfully submitted that this Honorable Court has misapprehended and/or overlooked the medical evidence in the Record as a whole.

- 1. Although this Honorable Court states that the Commission erred in affirming the single commissioner's award of permanent total disability under the scheduled-member statute, the substantial evidence in the record supports the Commission's affirmation of the single commissioner's award of permanent and total disability under the scheduled member statute.**
- 2. Although this Honorable Court states that the Commission erred in affirming the single commissioner's determination that the Claimant's back is impaired greater than fifty percent because there is no medical evidence in the record that supported the single commissioner's findings, there is substantial evidence in the record support the single commissioner's findings.**

It is respectfully submitted that this Honorable Court may have misapprehended or overlooked the standard of review in the instant matter in the above findings. Again, the undersigned recognizes that this Honorable Court may have their own opinion regarding the interpretation of the evidence in the record, however, under the substantial evidence standard of review, this Court may not substitute its judgment for that of the Commission as to the weight of the evidence on questions of fact, but may reverse where the decision is affected by an error of law.³⁴ In a workers' compensation case, this Honorable Court does not have the authority to find facts; that authority belongs to the Commission.³⁵ As a general rule, this Court must affirm the findings of fact made by the Commission if they are supported by substantial evidence.³⁶ This Honorable Court has cited the exception to this rule that, where

³⁴ *Potter v. Spartanburg School District*, 395 S.C. 17, 22, 716 S.E.2d 123, 126 (Ct.App. 2011)(citing *Stone v. Traylor Bros.*, 360 S.C. 271, 274, 600 S.E.2d 551, 552 (Ct. App. 2004).

³⁵ *Burnette v. City of Greenville*, 401 S.C. 417,429, 737 S.E.2d 200, 206 (Ct. App. 2012); citing *Sigmon v. Dayco Corp.*, 316 S.C. 260, 262, 449 S.E.2d 497, 498 (Ct. App. 1994).

³⁶ *Id.* at 427, 205.

no evidence indicates a medical opinion or finding of fact of a single commissioner originated from a medical provider, such an opinion or finding is not supported by substantial evidence, however, that exception does not arise in this case. While the undersigned does not purport to place himself in the collective mind of this Honorable Court, the underlying theme of this Court's opinion appears to be that the Court simply does not agree that the Claimant has suffered a greater than 50% disability to his spine. However, the possibility of drawing two inconsistent conclusions from the evidence does not prevent the Commission's finding from being supported by substantial evidence.³⁷

It is also respectfully submitted that this Honorable Court has overlooked S.C. Code Ann. § 1-23-330(4) regarding evidentiary matters in contested cases. Specifically, this Court overlooks the Commission's experience, technical competence, and specialized knowledge in the evaluation of evidence. S.C. Code Ann. § 1-23-330(4) reads in pertinent part, "The agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence."

The Commission, collectively, has spent countless hours, weeks, and even years evaluating medical records and evidence. The Commission scours medical records searching for bits and pieces of evidence to support their decisions, and ultimately, to make findings and conclusions that are fair and supported by substantial evidence. Throughout that process, the Commission gains experience, technical competence, and specialized knowledge of the terms and definitions used within the medical community (*including, for example, the definition of "surgical outcomes and results"*). It is respectfully submitted that this Honorable Court has overlooked the statutory authority of the Commission to avail themselves of their experience,

³⁷ *Burnette v. City of Greenville*, 401 S.C. 417,427, 737 S.E.2d 200, 205 (Ct. App. 2012).

technical competence and specialized knowledge in the evaluation of medical records as wells as the medical evidence as a whole. Quite frankly, the Commission deserves far more deference than it was afforded in the instant matter.

CONCLUSION

It is respectfully submitted that this Honorable Court has misapprehended and/or overlooked the substantial evidence in the record as a whole in support of the Single Commissioner's and the Full Commission's Findings as well as the constraints imposed by the relevant standard(s) of review. It is also respectfully submitted that this Honorable Court misapprehended and/or overlooked the constraints of the relevant standard(s) of review in reaching its findings. Respondent requests that this matter be reexamined and reheard, and for any further relief the Court deems just and proper.

Respectfully submitted,

Garcia Law, LLC

By: /s / Stephen N. Garcia
Stephen N. Garcia, SC Bar No. 76191

604 Pettigru Street
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Dial: (864) 271-7335
For Respondent

May 27, 2022

Greenville, SC

STATE OF SOUTH CAROLINA
In the Court of Appeal

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Gene McCaskill, Commissioner
R. Michael Campbell, II, Commissioner
T. Scott Beck, Commissioner

SCWCC File No. 1508995

Appellate Case No. 2018-001964

Samuel Paulino, Claimant.....Respondent

v.

Diversified Coatings, Inc., Employer, and AmGuard Ins. Co., Carrier.....Appellants.

Appellant's Return to Respondent's AMENDED Petition for Rehearing

Pursuant to the Court's request, and in accordance with SCACR 240 (e), Appellants hereby file the ensuing Return to Respondent's AMENDED Petition for Rehearing following the Court's dispositional Opinion in this matter filed on March 9, 2022.¹ Appellants respectfully submit the AMENDED Petition should be denied/dismissed because it fails to explain how the Court "overlooked" or "misapprehended any argument/issue as required by SCACR 221 (a). The purpose of a petition for rehearing is not to have the case tried in the appellate court a second time. Kennedy v.

¹ Appellants Moved to Strike portions of Respondent's original Petition for Rehearing containing arguments and evidence that was not part of the Record on Appeal contrary to SCACR 210 (h). The Court granted the Motion and Respondent filed the AMENDED Petition.

S.C. Ret. Sys., 349 S.C. 531, 564 S.E.2d 322 (2001). Specifically, the Petitioner should not get a “second bite at the apple” for the Court to *reconsider* what it has already ruled upon. Rather, the purpose of Rehearing is to allow the Court to *consider for the first time* an issue that was overlooked or misapprehended. In sum, Petition for Rehearing before the appellate court should not be akin to a Motion to Reconsider under SCRCP 59 (e) before the circuit court.

In this case, Respondent simply reframes and reargues the same issues previously made by the parties during Briefing and Oral Arguments that the Court properly considered and disposed of in its March 9, 2022 Opinion. Respondent does not identify any argument that the Court “overlooked” or “misapprehended.” Respondent is essentially asking the Court to “reconsider” its prior Opinion, which does not satisfy the aforementioned standard of review. As such, the Court should summarily dismiss the AMENDED Petition for Rehearing. Nevertheless, for the sake of clarity and completeness, Appellants remind the Court of the following points supporting its decision.

I. THE COURT PROPERLY HELD THAT THE COMMISSION’S FINDING OF GREATER THAN 50% LOSS OF USE OF THE BACK WAS NOT SUPPORTED BY “MEDICAL EVIDENCE” IN THE RECORD.

Relying on Clemmons v. Lowe’s Home Centers, Inc., 420 S.C. 282, 803 S.E.2d 268 (2017), this Court held “the Commission erred in affirming the single commissioner’s determination that Claimant’s back is impaired greater than fifty percent because “there is no medical evidence in the record that supported” that finding. Paulino v. Diversified Coatings, Inc., Unpublished Op. No. 2022-UP-096 at p. 2.

Clemmons holds that “medical evidence” of impairment is virtually outcome determinative of a claimant’s entitlement to PPD compensation under § 42-9-30 (21). 803 S.E.2d 268 at p. 271. In that case, the claimant had a multi-level cervical fusion and was assigned a 25% whole person impairment rating by the authorized treating physician. That rating converted to a 71% regional impairment per the *AMA Guides to the Evaluation of Permanent Impairment*. The Commission awarded claimant PPD

benefits based on 48% loss of use of the back. Despite evidence in the record confirming claimant returned to full duty work as a cashier at Lowes performing tasks indicative of *less than* fifty-percent loss of use of his back, the Supreme Court reversed the Commission's award, finding "there is *no* evidence in the record that Clemmons suffered anything less than a fifty percent impairment to his back. Every doctor and medical professional who assigned an *AMA Guides* impairment rating indicated Clemmons lost more than seventy percent of the use of his back." (emphasis added).

In the instant case, the Court correctly noted that the undisputed "medical evidence" confirms back impairment ratings of only 13% from Dr. McHenry and 12% from Dr. Math. These impairments are obviously significantly less than 50%. Even if the medical impairment rating alone is not outcome determinative of "loss of use" under § 42-9-30 (21), there can be no doubt that the rating is the paramount factor for the commission's consideration in light of the Supreme Court's preoccupation with the impairment rating in Clemmons, particularly the Court's reference to the term "medical evidence" on no less than four occasions throughout its Opinion.

Further, the Court correctly rejected the Commission's finding that the impairment ratings in the instant case were "low based on a poor surgical result" as being unsupported by competent "medical evidence." See Burnette v. City of Greenville, 401 S.C. 417, 428-429, 737 S.E 2d 200, 206-207 (Ct. App. 2012)(a commission finding regarding a medical issue that does not originate from a medical provider is not supported by substantial evidence as a matter of law). For these reasons, the Court properly held that the medical impairment ratings in this case are unrefuted, and the Commission's award of total disability based on greater than 50% loss of use of the back was thus wholly unfounded.

The question now becomes what other "medical evidence," if any, justifies a PPD award higher than the medical impairment rating denotes? Appellants point to additional "medical evidence" in the Record confirming that Claimant has sustained less than 50% impairment to the back, including the following: 1) Dr. Math noted on her initial physical examination that Claimant's gait and strength in the lower extremities are "NORMAL." She noted restricted range of motion of the lumbar spine due

to subjective complaints of pain, but his straight leg test was negative. [R. p. 22]; 2) In March 2017, Dr. Math referred Claimant back to Dr. McHenry for an updated assessment on further surgery. Dr. McHenry ordered another MRI to assess his post-surgical status. On April 12, 2017, Dr. McHenry stated the following: “I reviewed images from the most recent MRI lumbar scan and compared with his previous post-op and the pre-op MRI. The disc herniation at L3-4 is no longer present. He has persistent degenerative changes but no focal impingement that correlates with his persistent radicular leg symptoms” [R. p. 132]; 3) Claimant returned to Dr. Math in June 2017. Dr. Math noted that his clinical progression remains unchanged with estimated maximum pain level of only 5 out of 10. She continued Gabapentin and Flexeril, but discontinued narcotic pain medication, and ordered a functional capacity exam (FCE) [R. pp. 22-23]; 4) Claimant performed the FCE with Elite Physical Therapy on November 20, 2017. Significant findings from the FCE include: consistent effort without high pain focus, **overall MEDIUM duty** lifting capacity with OCCASIONAL maximum lift of 50 pounds and FREQUENT lift capacity of 15 pounds [R. p. 23], CONSTANT level (greater than 40 minutes/hour) for sitting, walking, and standing [R. p. 100], FREQUENT level (20-40 minutes/hour) for lumbar flexion (i.e. bending) and rotation (i.e. twisting), and OCCASIONAL level (less than 20 minutes per hour) for kneeling, squatting, and overhead lifting. [R. p. 101].

In sum, the Court correctly held that the “medical evidence” in this case does not come close to supporting the Commission’s award of total disability based on greater than 50% loss of use of the back under S.C. Code §42-9-30 (21). As such, Respondent’s Petition for Rehearing must be DENIED.

II. THE COURT PROPERLY HELD THERE IS NO OTHER SUBSTANTIAL EVIDENCE IN THE RECORD REGARDING THE “CHARACTER” OF CLAIMANT’S INJURY SUPPORTING THE COMMISSION’S FINDING OF GREATER THAN 50% LOSS OF USE OF HIS BACK.

Under the “medical model” of compensation per § 42-9-30, the nature and character of the injury controls. *See Stephenson v. Rice Services*, 323 S.C. 113, 473 S.E.2d 699 (SC 1996) (with scheduled disability injuries the compensation depends on the “character of the injury” rather than loss

of earnings). Moreover, a permanent disability award pursuant to S.C. Code § 42-9-30 “need not be shown with mathematical exactness,” but it still must only be founded on evidence of sufficient substance to afford a reasonably determinable basis for it. See Bundrick v. Powell’s Garage and Wrecker Service, 248 S.C. 496, 151 S.E.2d 437 (SC 1966) (the award may not rest on surmise, conjecture or speculation; it must be founded on evidence of sufficient substance to afford a reasonable basis for it).

In the instant case, the Court correctly noted that Claimant presented only sparse testimony regarding the nature and extent of his physical injuries. There is no subjective testimony that refutes the objective medical evidence confirming impairment of less than 50% of the back. As such, the speculative nature of the Commission’s finding that Claimant sustained a greater than 50% loss of use of the back is self-evident. The Commission never even determined what Claimant’s actual loss of use of his back was; it merely found the impairment was some unknown factor **over four times greater** than the impairment ratings. This is clearly erroneous because there is no evidence of “sufficient substance” to support it. See Bundrick supra. Although the Court in Clemmons found there was no evidence of impairment/loss of use less than 50%, thus implicitly holding claimant was presumed to be totally disabled, it nevertheless remanded the case to the Commission with instructions to determine the actual impairment. Clemmons, 420 S.C. at pp. 489-490. A finding of the actual impairment/loss of use is clearly required. Otherwise, the award is award nothing but conjecture and cannot stand. As such, the Court correctly reversed the Commission’s generic finding that Claimant’s impairment is simply greater than the threshold for a presumption of total disability.

Finally, if the medical impairment rating must be the primary factor for purposes of compensation under the “medical model” as the Supreme Court clearly mandates in Clemmons, then other non-medical evidence regarding the character of the injury cannot logically supersede the proportion the impairment rating bears to the ultimate total loss of use award under S.C. Code § 42-9-30 (21), or at least not to the extent exercised by the Commission here. Although the award need not

be shown with “mathematical exactness,” an award of total disability based on an undetermined loss of use of the back **OVER FOUR TIMES GREATER** than the medical impairment ratings, and unsupported by other medical evidence and/or lay testimony regarding the character of the injury, is “inexact” to say the least. Such an award is not only out of the proverbial ballpark of what the facts could possibly justify, the reasoning behind it suggests the Commission is not even playing the right sport in this case. The Court correctly reversed.

CONCLUSION

For all the aforementioned reasons, the Court should DISMISS/DENY Respondent’s AMENDED Petition for Rehearing.

On a final note, Appellants respectfully request that the Court amend its Opinion to clarify the scope of Remand back to the Commission. The concern is the Commission may be inclined to try this case *de novo* before another Hearing Commissioner, an Order and award from which may then have to be appealed again to the Full Commission Appellate Panel. Such a convoluted process could potentially violate the law of the case doctrine and unnecessarily delay/complicate a timely adjudication of this matter.

The Supreme Court has harshly condemned similar procedural quagmires resulting from unnecessary single commissioner hearings and full commission remands. See Russell v. Wal-Mart Stores, Inc., 426 S.C. 281, 826 S.E.2d 863 (2019). In that case, the Court stated:

While the Court of Appeals did not provide the commission with specific remand instructions, the commission should have been able to determine that its error was in the appellate panel’s review of the commissioner- not in the work of the commissioner. It was completely unnecessary, therefore, for the commission to require that the case be reheard by a second commissioner. Rather, given the clear description of the error committed by the appellate panel in reversing the original commissioner, the only task for the commission after the court of appeals’ decision was to complete a renewed review of the original commissioner’s order under proper principles of law. *Id* at 426 S.C. p. 289.

Although the Full Commission affirmed the Hearing Commissioner’s award in this case, the timely adjudication principles espoused in Russell still apply here. It is elementary that the Full Commission,

not the single commissioner, is the ultimate finder of fact in workers compensation matters and only decisions from the Full Commission are appealable to the Courts. *See Ross v. American Red Cross*, 298 S.C. 490, 381 S.E.2d 728 (SC 1989). As such, it is not necessary for a single commissioner to enter a new PPD award. Therefore, the Court should clarify that on Remand the Full Commission should enter a PPD award consistent with “proper principles of law” set forth in the Court’s March 9, 2022 Opinion.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "George D. Gallagher", followed by a horizontal line.

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June 6, 2022
Columbia, SC

RECEIVED

Jun 06 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeal

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

T. Scott Beck, Commissioner
Gene McCaskill, Commissioner
R. Michael Campbell, II, Commissioner

SCWCC File No. 1508995

Appellate Case No. 2018-001964

Samuel Paulino, Claimant, Respondent

v.

Diversified Coatings, Inc., Employer, and Amguard Ins. Co., Carrier, Appellants

PROOF OF SERVICE

I certify that I have served the **Appellant's Return to Respondent's AMENDED Petition for Rehearing** on Samuel Paulino, with postage prepaid and with the envelope addressed to his attorney, Stephen N. Garcia (604 Pettigru Street, Greenville, SC 29601) as well as by electronic service (stephen@scgarcialaw.com).



June 6, 2022

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BRITTANY BELL TURNER (GA & FL)
∞
GEORGE D. GALLAGHER (SC)
CHARLES A. KINNEY (GA, NC & SC)

June 6, 2022

The Honorable Jenny Abbot Kitchings (via email)
Clerk of Court for the SC Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED
Jun 06 2022
SC Court of Appeals

RE: Samuel Paulino v. Diversified Coating System
Appellate Case No. 2018-001964

Dear Ms. Kitchings:

Enclosed for filing, please find the Appellant's Return to Respondent's AMENDED Petition for Rehearing in the above-referenced matter. By copy of this letter to the Respondent's attorney, Stephen Garcia, Esquire, I am serving him with a copy of the Motion.

Sincerely,



George D. Gallagher
GDG/rco
Enclosures

cc: Stephen Garcia, Esquire (w/encl) via email
Kristie Ozark (w/encl) via email

The South Carolina Court of Appeals

Samuel Paulino, Claimant, Respondent,

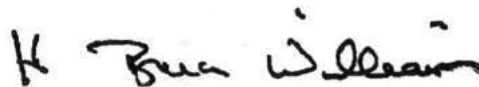
v.

Diversified Coatings, Inc., Employer, and Amguard Ins.
Co., Carrier, Appellants.

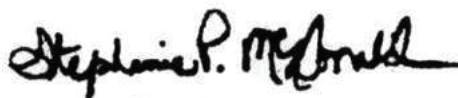
Appellate Case No. 2018-001964

ORDER

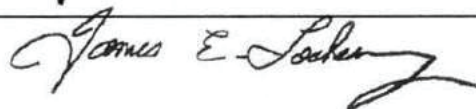
After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



C.J.



J.



A.J.

Columbia, South Carolina

cc:

George D. Gallagher, Esquire
Kevin Desmond Maroney, Esquire
Stephen N. Garcia, Esquire
Amy Bracy

FILED
Jul 11 2022