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Clay Thomas, DC

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November 20, 2018

Law Offices of Natalia Foley
Attn: Natalia Foley, Esq.
8306 Wilshire Boulevard
#115 Beverly Hills, CA 90211

Sedgwick Claims Management Services, Inc.
P.O. Box 14152
Lexington, KY 40512-4152

PRIMARY TREATING PHYSICIAN'S PERMANENT AND STATIONARY REPORT

Patient's Name	:	**CLARKE, DEBORAH**
Date of Birth	:	May 29, 1949 *(69)*
Social Security Number	:	565-78-9844
Date of Injury	:	CT May 5, 2017 – April 4, 2018; June 1, 2017 - March 25, 2018
Patient's Employer	:	CVS Caremark Corporation
Patient's Occupation	:	Cashier
Insurance Carrier		Sedgwick Claims Management Services, Inc.
Claim Number	:	30189866969-0001; 30189866794-0001
WCAB Number	:	ADJ11264523; ADJ11264503
Date of Initial Examination	:	June 12, 2018
Date of Final Examination	:	November 13, 2018
Date of Report	:	November 20, 2018

To Whom It May Concern:

Ms. Deborah Clarke is a 69-year-old, right-handed, female, who presented to this facility on November 13, 2018, for a permanent and stationary evaluation due to injuries she states she sustained on a cumulative trauma basis from May 5, 2017 to April 4, 2018 and from June 1, 2017 to March 25, 2018 while performing her usual and customary duties for CVS Caremark Corporation as a cashier.

A total of 2 hours and 30 minutes was spent in reviewing the records and preparing this report.

Primary Treating Physician's Permanent and Stationary Report

JOB DESCRIPTION

Ms. Deborah Clarke began employment with CVS Caremark Corporation in the capacity of a cashier.

HISTORY OF INJURY AS RELATED BY THE PATIENT

Ms. Deborah Clarke is a 69-year-old, female who sustained work-related injuries on a cumulative trauma basis from May 5, 2017 to April 4, 2018 and from June 1, 2017 to March 25, 2018 during the course of her employment for CVS Caremark Corporation as a cashier.

The patient entered the office with complaints related to her neck region, mid thoracic, low back and left hip. She also had additional complaints such as stomach pain. She reports that her condition is worse after performing her work duties. She states that her condition became worse after a new manager would not adhere to her work modifications that include standing no longer than 50% of the time and bending at the waist no longer than 25% of her shift. She received the modification from Dr. Joseph Tabet on October 25, 2017.

INTERIM HISTORY AND TREATMENT COURSE

As you are aware, I have initially seen this patient on June 12, 2018 with presenting complaints of neck pain, mid and lower back pain. I referred her for pain management consultation and orthopedic evaluation.

During the treatment period, the patient also continued to see Joseph Tabet, M.D. Following the evaluation, medications were dispensed and the patient was advised to continue conservative care with the undersigned.
As of this evaluation, it is my opinion that Ms. Clarke's condition have reached maximum medical improvement and is permanent and stationary.

CHIEF PRESENTING COMPLAINTS

CERVICAL SPINE:

The patient complains of dull aching pain in neck associated with cramps, stiffness and weakness. She rated the pain as 9/10 on a pain scale.

THORACIC SPINE:

The patient complains of dull aching pain in midback associated with cramps, stiffness and weakness. She rated the pain as 9/10 on a pain scale.

LUMBAR SPINE:

The patient complains of dull aching pain in low back associated with cramps, stiffness and weakness. She rated the pain as 9/10 on a pain scale.

PAST MEDICAL HISTORY

PRIOR SIMILAR INDUSTRIAL INJURIES:

None reported. She denies any similar problems or injuries to the same body parts.

PRIOR NON-INDUSTRIAL INJURIES:

None reported.

PRIOR MOTOR VEHICLE ACCIDENTS:

None reported. She denies any serious injuries from motor vehicle accidents or sports activities.

PRIOR SURGICAL HISTORY:

None reported. She denies any surgical history.

PRIOR MINOR/MAJOR ILLNESSES:

None reported. She denies any minor/major illnesses.

ALLERGIES:

No known drug allergies.

SOCIAL HISTORY

The patient denies tobacco use and drinking alcoholic beverages.

ACTIVITIES OF DAILY LIVING

1. Extended computer use: The patient has limited capacity.
2. Driving: No limitation.
3. Household chores: The patient has limited capacity.
4. Lifting: The patient has limited capacity.

5. Sleep: The patient has limited capacity.
6. Self-care: The patient has limited capacity.
7. Changing positions from sitting to standing: The patient has limited capacity.

PAIN VISUAL ANALOG SCALE (from 0 as no pain to 10 as worst pain): The patient rated it as 5. The patient also rated the pain as 8 with movement.

EPWORTH SLEEPINESS SCALE

The Epworth Sleepiness Scale is used to determine the level of daytime sleepiness. A score of 10 or more is considered sleepy. A score of 18 or more is very sleepy. If the patient has a score of 10 or more on this test, they may need to see a sleep specialist.

It should be noted that the patient has reported some degree of difficulty sleeping due to ongoing symptoms. The patient's score on the Epworth Sleepiness Scale totaled 8.

PATIENT HEALTH QUESTIONNAIRE PHQ – 9

The Patient Health Questionnaire (PHQ9) is used to rule out physical causes of depression, normal bereavement and a history of a manic/hypomanic episode. A score of 5-9 is considered to have minimal symptoms. A score of 10-14 is considered to have minor depression, dysthymia or major depression, mild. A score of 15-19 is considered to have major depression, moderately severe and a score of greater than 20 is considered to have major depression. The patient's PHQ-9 total is 8.

REVIEW OF SYSTEM

Constitutional: The patient has no history of fever, unexpected weight gain, fatigue, chills and sweats.
Eyes: The patient has no history of glaucoma, blindness or blurred vision.
ENT: The patient has no history of ringing in the ears, hearing loss, congestion or difficulty swallowing.
Cardiovascular: The patient has no history of chest pain, arrhythmia, palpitations, valve disease, heart attack or high blood pressure.
Respiratory: The patient has no history of shortness of breath, wheezing, cough or requires oxygen.
Gastrointestinal: The patient has no history of ulcers.
Genitourinary: The patient has no history of frequent urination, difficulty urinating, pain during urination, kidney stones, painful intercourse, menstrual problems or blood in the urine.
Endocrine: The patient has no history of thyroid problems, diabetes, bleeding gums, blood disorder or hair loss.
Musculoskeletal: The patient has no history of joint pain, muscle cramps or difficulty walking.
Skin: The patient has no history of easy bruising, itching or rash.
Neurologic: The patient has no history of headaches, seizures, paralysis, dizziness, memory loss or confusion.

Psychiatric: The patient has mild history of depression. No history of anxiety, panic attacks, suicide attempts, suicidal thoughts, emotional problems and mood disorder.

PHYSICAL EXAMINATION

The patient is a well-developed, well-nourished, pleasant and cooperative right-hand dominant female.

CERVICAL SPINE EXAMINATION:

There is a palpable tenderness noted.

CERVICAL SPINE RANGE OF MOTION:

Range of motion of the cervical spine was performed with complaints of ***neck*** pain/stiffness during all the end ranges of motion. It was as follows:

	Right	Left	Normal Motion (based on AMA *Guides* 5th Edition
Flexion	**20 degrees**		50 degrees
Extension	**20 degrees**		60 degrees
Lateral Rotation	**10 degrees**	**20 degrees**	80 degrees
Lateral Flexion	**5 degrees**	**5 degrees**	45 degrees

CERVICAL SPINE SPECIAL TESTS:

Spinal Percussion:	**Positive**
Cervical/Foraminal Compression test:	**Positive**
Jackson Compression test	**Positive, bilaterally**

THORACIC SPINE EXAMINATION:

There is a palpable tenderness noted.

THORACIC SPINE RANGE OF MOTION:

Range of motion of the thoracic spine was performed with complaints of ***midback*** pain/stiffness during all the end ranges of motion. It was as follows:

	Right	Left	Normal Motion (based on AMA *Guides* 5th Edition
Flexion	**10 degrees**		50 degrees
Extension	**5 degrees**		0 degrees
Lateral Rotation	**10 degrees**	**10 degrees**	30 degrees

LUMBAR SPINE EXAMINATION:

There is a palpable tenderness noted. There is atrophy of the left gluteus and quadriceps muscles.

LUMBAR SPINE RANGE OF MOTION:

Range of motion of the lumbar spine was performed with complaints of ***low back*** pain/stiffness during all the end ranges of motion. It was as follows:

	Right	Left	Normal Motion (based on AMA *Guides* 5th Edition
Flexion	**10 degrees**		60 degrees
Extension	**0 degrees**		25 degrees
Lateral Rotation	**10 degrees**	**10 degrees**	30 degrees
Lateral Flexion	**10 degrees**	**10 degrees**	30 degrees

LUMBAR SPINE SPECIAL TESTS:

	Right	Left
Seating Straight Leg Raise	**Positive**	**Positive**

LOWER EXTREMITY EXAMINATION:

HIPS:

There is a palpable tenderness noted. There is pelvic hypomobility.

HIP RANGE OF MOTION:

Range of motion of the hip was performed with complaints of ***left hip*** pain/stiffness during all the end ranges of motion. It was as follows:

	Right	Left	Normal Motion (based on AMA *Guides* 5th Edition
Flexion	90 degrees	**30 degrees**	90 degrees
Extension	30 degrees	**10 degrees**	30 degrees
Internal rotation	40 degrees	**10 degrees**	40 degrees

External rotation	50 degrees	**20 degrees**	50 degrees
Abduction	50 degrees	**10 degrees**	50 degrees
Adduction	30 degrees	**10 degrees**	30 degrees

HIP SPECIAL TESTS:

	Right	Left
Patrick's test	Negative	**Positive**
Hibb's test	Negative	**Positive**
Yeoman's test	Negative	**Positive**

FUNCTIONAL CAPACITY ASSESSMENT:

The patient is limited from standing and/or walking and sitting a total of less than 2 hours per an 8 hour shift. She is frequently allowed to feel, see, hear and speak. She is allowed to do occasional reaching, handling and fingering. The patient is not allowed to do climbing, balancing, stooping, kneeling, crouching, crawling and twisting. Due to her lower back disc problem and pain, performing any of the aforementioned activities would cause severe exacerbation.

MEDICAL RECORD REVIEW

04/04/2018 Workers' Compensation Claim Form (DWC-1). The employee allegedly sustained stress and strain on a cumulative trauma from 05/05/2017 to 04/04/2018.

04/04/2018 Workers' Compensation Claim Form (DWC-1). The employee allegedly sustained stress, depression and anxiety on a specific trauma on 06/01/2017 and 03/25/2018.

04/04/2017 Work Status Report, signed by Yusuf Joseph Tabet, M.D. MODIFIED ACTIVITY: The patient is placed on modified activity at work and at home from 05/01/2017 through 08/01/2017. Patient's activity is modified as follows: stand: frequently, walk: frequently, drive: not at all, bend at the waist: occasionally, torso/spine twist: not at all, climb ladders: not at all, use of scaffolds/work at height: not at all and lift/carry/push/pull: no more than 5 pounds. Cane and walker was use as directed.

10/25/2017 Work Status Report, signed by Yusuf Joseph Tabet, M.D. DIAGNOSIS: Orthopedic aftercare. MODIFIED ACTIVITY: The patient is placed on modified activity at work and at home from 10/25/2017 through 04/25/2018. Patient's activity is modified as follows: stand: intermittently, walk: intermittently, drive: not at all, bend at the waist: occasionally, torso/spine twist: not at all, climb ladders: not at all, use of scaffolds/work at height: not at all, lift/carry/push/pull: no more than 5 pounds and work no more than 5 hours per workday. Other needs and/or restrictions: 2-3 days a week.

RADIOGRAPHIC/DIAGNOSTIC STUDIES

02/12/2018 MRI of Cervical Spine without contrast, performed at Saddleback Valley Radiology, signed by Mitchell Berner, M.D. IMPRESSION: 1) Multilevel degenerative changes are seen, at the C4-C5 level there is mild spinal canal stenosis with moderate to severe right mild to moderate left neural foraminal narrowing. 2) At the C5-C6 level, there is minimal spinal canal stenosis with severe right and minimal left neural foraminal narrowing. 3) Minimal spinal canal stenosis is also seen at the C6-C7 level with moderate to severe left neural foraminal narrowing due to a foraminal protrusion and 4) At the C3-C4 level, there is mild to moderate left and mild right neural foraminal narrowing.

02/27/2018 MRI of Lumbar Spine without contrast, performed at Saddleback Valley Radiology, signed by Keith Burnett, M.D. INTERPRETATION: 1) Far left lateral disc protrusion at L3-L4 of 3-4mm with foraminal stenosis but no nerve root compression. 2) Erosive and hypertrophic facet arthrosis at L4-L5 slight anterior listhesis and mild central stenosis, no evidence of intraforaminal root compression and 3) Disc degeneration at L5-S1 with 3mm posterior disc protrusion and osteophyte ridge complex, slightly right-sided and mild central stenosis and right-sided foraminal narrowing.

This concludes the review of medical and/or diagnostic study reports.

SUMMARY & DISCUSSION

Ms. Deborah Clarke is a 69-year-old female whom I have seen in my office for evaluation of the injuries that she sustained on a cumulative trauma basis from May 5, 2017 to April 4, 2018 and from June 1, 2017 to March 25, 2018 during the course of her employment with CVS Caremark Corporation. She attributed her injuries to her regular job duties required in the execution of her occupation as a cashier.

I have initially seen and evaluated this patient on June 12, 2018 with complaints of neck pain, mid and lower back pain and left hip pain. At that time, I diagnosed her with the following: 1) Cervical spine disc syndrome. 2) Lumbar spine disc syndrome. 3) Cervical spine segmental dysfunction. 4) Thoracic spine segmental dysfunction. 5) Lumbar spine segmental dysfunction. 6) Cervical spine sprain. 7) Lumbar spine sprain. 8) Left hip sprain and 9) Depression.

At this point, the patient is assessed to have reached a plateau with regard to her response to the treatments rendered to her. As such, she is considered to be Maximally Medically Improved. Impairment ratings based on the AMA *Guides to the Evaluation of Permanent Impairment*, 5th edition will be provided. Issues concerning causation, apportionment, work restrictions, and future medical care are also discussed in the subsequent paragraphs.

APPROPRIATENESS OF TREATMENT

Considering the clinical presentation and the apparent favorable response to treatment, management for the patient was conservative in nature. Diagnostic modalities such as MRI scan was requested in order to validate clinical impressions and assist in further and localizing and identifying pathology. As such, I opine that these treatments are all medically reasonable and appropriate as shown by the subsequent

improvement of the patient.

DIAGNOSES

1. CERVICAL SPINE DISC SYNDROME (ICD-10: M50.121)
2. LUMBAR SPINE DISC SYNDROME (ICD-10: M51.26)
3. CERVICAL SPINE SEGMENTAL DYSFUNCTION (ICD-10: M99.01)
4. THORACIC SPINE SEGMENTAL DYSFUNCTION (ICD-10: M99.02)
5. LUMBAR SPINE SEGMENTAL DYSFUNCTION (ICD-10: M99.03)
6. CERVICAL SPINE SPRAIN (ICD-10: S13.4XXA)
7. LUMBAR SPINE SPRAIN (ICD-10: S33.5XXA)
8. LEFT HIP SPRAIN (ICD-10: S73.102A)
9. DEPRESSION (ICD-10: F32.1)

DISABILITY STATUS

After a thorough review of all medical records concerned and the findings obtained from this evaluation, there is enough evidence to support the premise that the patient has reached a plateau. I believe that she has now reached a point of Maximum Medical Improvement. Therefore, she is considered Permanent and Stationary for rating purposes.

SUBJECTIVE FINDINGS

The patient complains of neck pain, mid and low back pain.

OBJECTIVE FINDINGS

Cervical Spine

1. There is a palpable tenderness noted.
2. There is limited range of motion.
3. Positive orthopedic tests.
4. Positive MRI findings.

Thoracic Spine

1. There is a palpable tenderness noted.
2. There is limited range of motion.

Lumbar Spine

1. There is a palpable tenderness noted.
2. There is limited range of motion.

3. Positive orthopedic test.
4. Positive MRI findings.

Left Hip

1. There is a palpable tenderness noted.
2. There is limited range of motion.
3. Positive orthopedic tests.

IMPAIRMENT RATING

The AMA *Guides* states that *"the physicians judgment based upon experience, training, skill, thoroughness in clinical evaluation, and ability to apply guides criteria as intended, will enable appropriate and reproducible assessment to be made of clinical impairment."* (Chapter 15)

Cervical Spine:

This patient's **cervical spine** condition is rated using the Diagnosis-Related Estimates (DRE) method based on the clinical findings of pain, limited range of motion, positive orthopedic tests and positive MRI findings. Using Table 15-5 on page 392, the patient's cervical spine condition is placed under DRE Cervical Category II and she is assigned **8% whole person impairment (WPI).**

Thoracic Spine:

As for the **thoracic spine**, impairment is also rated using the Diagnosis-Related Estimates (DRE) method based on Sec. 15.5 and Table 15-4 on pages 388-391. There is clinical findings of pain and limited range of motion. With this, the patient qualifies under DRE Thoracic Category II with **5% whole person impairment (WPI)**.

Lumbar Spine:

Similarly, the impairment rating for the **lumbar spine** is also rated using Diagnosis-Related Estimates (DRE) method referencing Table 15-3 on page 384. This is based on the findings of pain, limited range of motion, positive orthopedic test and positive MRI findings. With this, the patient's lumbar spine condition qualifies under DRE Lumbar Category II with **8% whole person impairment (WPI)**.

The impairment values obtained in the cervical spine (8% WPI), thoracic spine (5% WPI) and lumbar spine (8% WPI) are then combined using the Combined Values Chart on page 604, which would yield **20% whole person impairment (WPI).**

Left Hip:

Impairment for the left hip is rated based on limitation in range of motion. Flexion at 30 degrees has 20% LEI, extension at 10 degrees has 5% LEI, internal rotation at 10 degrees has 5% LEI, external rotation at 20 degrees has 5% LEI, abduction at 10 degrees has 10% LEI and adduction at 10 degrees has 5% LEI.

Adding the values would yield *50% lower extremity impairment (LEI).* Cross-referencing Table 17-3 on page 527, this converts to **20% whole person impairment (WPI).**

Pain

The patient suffers from **chronic pain** secondary to work-related injuries. According to page 573 of the *Guides, 'if the individual appears to have pain-related impairment that has increased the burden of his or her condition slightly, the examiner may increase the percentage by up to 3%.* Therefore, I assigned an additional **2% whole person impairment secondary to her ongoing pain symptoms.**

The 20% WPI obtained for the spine and 20% WPI obtained for the left hip are further combined using the Combined Values Chart on page 604, resulting to 36% whole person impairment. This is then added to the 2% WPI pain-related impairment yielding a total of **38% whole person impairment (WPI).**

I believe that the final impairment rating obtained is an accurate, equitable, and proportionate measurement of the patient's permanent disability.

APPLICATION OF THE ALMARAZ/GUZMAN EN BANC DECISION

The final impairment rating obtained based on the methods provided by the 5th Edition of the AMA *Guides* is deemed to be an accurate measure of the patient's functional loss. Thus, there is no indication that entails the need for the application of the Almaraz-Guzman en banc decision in this case.

CAUSATION

In the absence of evidence to the contrary, it is my opinion, the mechanism of injury is consistent with that described by the patient. Therefore, it is my medical opinion that the injuries arose out of and occurred during the course of the patient's employment as a cashier for CVS Caremark Corporation.

I reserve the right to alter my opinion regarding causation in light of any additional submitted medical information that may be presented subsequent to this report.

APPORTIONMENT

In accordance with the Senate Bill 899, Labor Code Sections 4663 and 4664, and the Escobedo decision, the following is my opinion regarding apportionment.

In the absence of medical evidence to prove the existence or prior permanent impairment in the cervical spine and thoracic spine from a previous injury or pre-existing non-industrial condition, there was no justification for any apportionment in this case. Therefore, apportionment based on causation would be 100% industrially related to the injury sustained on a cumulative trauma basis from May 5, 2017 to

April 4, 2018 and from June 1, 2017 to March 25, 2018, during the course of her employment for CVS Caremark Corporation as a cashier, with 0% of the impairment from other factors both prior to and/or subsequent to the industrial injury.

As for the lumbar spine, I am apportioning 90% as industrially related to the injury sustained on a cumulative trauma basis from May 5, 2017 to April 4, 2018 and from June 1, 2017 to March 25, 2018 and 10% to non-industrial factor from altercation with her son resulting to broken L3.

Regarding the left hip, I apportioned 100% to industrially related injury sustained on a cumulative trauma basis from May 5, 2017 to April 4, 2018 and from June 1, 2017 to March 25, 2018, during the course of her employment for CVS Caremark Corporation as a cashier and 0% to other factors both prior to and/or subsequent to the industrial injury.

I reserve the right to amend my opinions regarding apportionment should additional records be submitted containing information which would warrant change.

WORK RESTRICTIONS

It is my opinion that the patient will not be able to return to her usual occupation.

She is restricted from twisting the torso/spine, climbing ladders, driving and working on heights/scaffoldings.

SUPPLEMENTAL JOB DISPLACEMENT BENEFITS

If the work restrictions noted above are not honored by her employer, then she should be regarded as a Qualified Injured Worker (QIW), and therefore should be eligible for Supplemental Job Displacement Benefits.

FUTURE MEDICAL CARE

It is my opinion that this patient should be provided future medical care for flare-ups that would be reasonably expected for her condition. Future medical care should include the following:

Future medical care should include prescriptions of pain and anti-inflammatory medications, short courses of physical and/or chiropractic therapy, referral to specialist, follow-ups, injections, diagnostic studies including but not limited to radiographs and MRI scan. Surgery to the lumbar spine should be considered.

Thank you for allowing me to participate in the care and treatment of this patient. If I may be of further assistance to you, please feel free to contact me at your convenience.

DISCLOSURE NOTICE

In compliance with Labor Code Section 4628, I personally examined in this facility on November 13, 2018. The history was taken by me by direct questions on my part through the use of a questionnaire completed by the examinee, which I reviewed with the examinee. In addition to conducting the examination, I personally composed and drafted the conclusions of this report. The vital statistics contained in the report were performed by myself.

"I declare under penalty of perjury that I have not violated Labor Code 139.3 and the information contained in this report and its attachment, if any, is true and correct to the best of my knowledge and belief, except as to information that I have indicated I received from others. As to that information, I declare under penalty of perjury that the information accurately describes the information provided to me and, except as noted herein, that I believe it to be true."

"I declare under penalty of perjury that I devote annually greater than sixty percent of my time to medical treatment

The foregoing declaration was signed in Rancho Santa Margarita, California, on 11-2018

Very Sincerely Yours,

Clay Thomas, D.C.

RH: lcr/msr