

Carrier:

Attention:

Regarding:

Claim No.:

DOI: 04-11-08

DOB: 06-01-52

Employer: Tri-W Manufacturing

Job Description: Welder

Weekly Salary:

Reviewing Physician: Dr. F, CIRS

Diagnosis: Trigger Finger (Right Thumb), Lumbar Disc Extrusion with Instability, Left Knee Arthritis with Meniscus Tear

Summary of Impairment Rating		
EME Recommended Impairment Rating	Apportionment	Rating Physician: Roger S, MD
Lumbar DRE Category 1 = 0% WPI Weakness in the Left Knee = 0% WPI Loss of Lumbar Spine Function = 0% WPI Patellofemoral Crepitus = 2% WPI Severe Trigger Finger = 4% WPI Total Recommended IR = 6% WPI PDR 10% Indemnity Base \$6,957.50	Lumbar 70% Industrial Knee 70% Industrial Hand 100% Industrial	Lumbar DRE Category 3 = 12% WPI Weakness in the Left Knee = 5% WPI Loss of Lumbar Spine Function = 27% WPI Patellofemoral Crepitus = 2% WPI Severe Trigger Finger = 4% WPI Total Submitted IR = 40% WPI PDR 48% Indemnity base \$59,110.00

Records Provided For Review

The following is a summary of the impairment rating based on the findings presented in Dr. S's clinical evaluation dated 11/05/09.

Summary of Noncompliant Documentation and Impairment Ratings

1. If this Claimant truly has severe triggering in the thumb this impairment rating should be 4% WPI not 3% WPI.
2. Other than subjective complaints of low back pain with referred pain into the right lower extremity, there were no objective clinical findings provided to validate an impairment rating for radiculopathy.
3. Dr. S provides no valid clinical findings to warrant an impairment rating for the lumbar spine.
4. The Guides note that loss of strength cannot be combined with rating for arthritis (Crepitus) in the lower extremities.
5. Dr. S provides no objective clinical evidence of weakness in the lower extremities.
6. The Guides also notes that weakness in the knee cannot be rated in the presence of [constant, sharp, stabbing] pain.
7. Dr. S inappropriately used Table 15-19 (Pelvic Disorders) to rate loss of function in the lumbar spine. He provides no objective or quantitative measurements to support a 30% loss of functional work activities (27% WPI).
8. The Almarez/Guzman Case does not give the rating physician license to issue impairment ratings without providing a clinical rational with objective clinical findings demonstrating specific functional deficits or restrictions in ADL.

9. A functional capacity evaluation would have been more appropriate for determining restrictions in work activities but, the impairment rating must still be based on objective clinical findings such as loss of motion, muscle spasm, guarding, neurological deficits, or specific spine disorders, not speculation or guess.

Regarding the Lumbar Impairment Ratings

The submitted impairment rating evaluation has been reviewed and is **incorrect** in the assignment of 12% WPI. The report is **inconsistent** with the requirements of the AMA Guides 5th Edition.

Issue 1

Dr. S states that he issued this impairment rating based on an S1 radiculopathy. His statement is contradicted by his clinical examination. He specifically states on page 11 of his examination that this Claimant has **“normal sensation in all the dermatomes bilaterally”**. He also notes that this Claimant has no muscle spasm, no sensory deficits, no motor deficits, normal DTR’s bilaterally and a normal gait.

Section 15, Table 15-3, Page 384 notes that a DRE Category III requires the following clinical findings;

- *“Significant signs of radiculopathy, dermatomal pain in a dermatomal distribution, sensory loss, loss or relevant reflex loss of muscle strength or measured unilateral atrophy, impairment may be verified by electrodiagnostic findings.*
- *history of a herniated disk associated with radiculopathy, or individuals who had surgery for radiculopathy but are now asymptomatic or,*
- *fractures”.*

Dr. S’s clinical findings are more consistent with DRE Category I which is described as:

- *“No significant clinical findings,*
- *no observed muscle guarding or spasm,*
- *no documentable neurologic impairment,*
- *no documented alteration in structural integrity, and*
- *no other indication of impairment related to injury or illness;*
- *no fractures”*

EME Recommended Impairment Rating = 0% WPI for the Lumbar Spine

Regarding the Impairment Rating for Weakness in the Left Knee

The submitted impairment rating evaluation has been reviewed and is **incorrect** in the assignment of 5% WPI. The report is **inconsistent** with the requirements of the AMA Guides 5th Edition.

Issue 1

It appears that Dr. S simply quotes Table 17-8 when issuing this impairment rating. He provides no objective clinical findings of weakness in the lower extremities.

Section 17.2e Manual Muscle Testing states; *“Manual muscle testing, which typically involves groups of muscles, depends on the examinee’s cooperation and is subject to his or her conscious and unconscious control. To be valid, the results should be concordant with other observable pathologic signs and medical evidence”.*

Dr. S specifically notes on page 11 of his examination that this Claimant presents with normal DTR, no sensory deficits, no atrophy in the lower extremities, normal heel and toe walk and a normal gait.

Issue 2

Section 17.2e Manual Muscle Testing also states; *“Individuals whose performance is inhibited by pain or the fear of pain are not good candidates for manual muscle testing, and other evaluation methods should be considered for them”.*

Dr. S notes on page 6 of his evaluation that the Claimant notes “constant, moderate to severe, dull, achy, sharp, stabbing pain”: in the left knee which extends to the ankle and elicits “giving way” and loss of balance.

Issue 3

Chapter 17, Section 17.2d, Page 530 states that when assessing diminished muscle dysfunction the evaluator can use one of four different methods, (atrophy, gait derangement, muscle weakness or peripheral nerve injury) but the ratings cannot be combined and only one can be used to issue an impairment rating.

Dr. S notes that this Claimant has no muscle atrophy, no gait derangement, no peripheral neuropathy and he provides no valid clinical findings to support muscle weakness in the lower extremity.

EME Recommended Impairment Rating = 0% WPI for Weakness in the Knee

Regarding the Impairment Rating for Loss of Lumbar Spine Function

The submitted impairment rating evaluation has been reviewed and is **incorrect** in the assignment of 27% WPI. The report is **inconsistent** with the requirements of the AMA Guides 5th Edition.

Issue 1

Chapter 1, Page 11 Section 1.5 Incorporating Science with Clinical Judgment states, *“in situations, where impairment ratings are not provided, the Guides suggest that physicians use clinical judgment, comparing measurable impairments resulting from the unlisted condition to measurable impairment resulting from similar conditions with similar impairment of function in performing activities of daily living”.*

Dr. S provides no objective clinical finding demonstrating that this Claimant has lost 30% of his lumbar function. There is no specific evidence that he is unable to perform material or nonmaterial handling activities such as lifting, carrying, pushing, pulling, bending, twisting, squatting or any other work related activity. He provides no quantitative measurement to indicate that this Claimant has any significant weakness in the lower extremities, trunk or abdominal muscle which would restrict functional activities related to these activities. There were no clinical findings of lumbar paraspinal muscle spasm, muscle guarding, asymmetric range of motion, or myofascial deficits which would elicit a 30% function restriction in the lumbar spine.

Issue 2

Chapter 16, Section 16.1b states; *“the medical evaluation is the basis for determination of permanent impairment of the upper extremity. **It must be accurate, objective and well documented**”, furthermore, “an impairment evaluation is **based on the examiner’s actual findings**”.*

Regarding the Almarez/Guzman Case

This case allows more discretion by the doctor in assessing permanent disability. If he feels that the *AMA Guides* rating is unfair and inequitable, the doctor can assign a different rating but, the rating must be based on objective clinical findings.

The Lawyer's Guide to the AMA Guides and California Workers' Compensation, by Robert G. Rassp, Chapter 4; Substantial Medical Evidence in an AMA Guides Case states; "A medical report is not substantial evidence unless it sets forth the reasoning behind the physician's opinion, not merely his or her conclusions."

Granado v. Workmen's Comp. App. Bd. (1968) 69 Cal.2d 399, 407 states: "To be substantial evidence, a medical report must indicate the reasoning behind the doctor's opinion".

Escobedo v. Marshalls (2005) 70 Cal.Comp.Cases 604, 620 notes: "A medical opinion is not substantial evidence if it is based on an inadequate history, speculation or guess".

Dr. S provided no clinical evidence indicate that this Claimant has a 27% loss of function in the lumbar spine.

Issue 3

Chapter 1, Page 17 of the Guides state; "*Two physicians, following the methods of the Guides to evaluate the same patient, should report similar results and reach similar conclusions. Moreover, if the clinical findings are fully described, any knowledgeable observer may check the findings with the Guides criteria.*"

This cannot be done when comparing Dr. S's clinical findings. There is no way to validate his claim that this Claimant has 27% impairment in lumbar spine function.

The Almarez/Gusman case does not give the rating physician license to rate an unrelated body area when there are no objective clinical findings provided to support an injury to that body part.

EME Recommended Impairment Rating = 0% WPI for Loss of Lumbar Spine Function

EME has been requested to review the impairment rating submitted by the Evaluating Physician(s). This Review addresses the compliance of the Rating Physician's use of the standard methods and required documentation outlined in the *AMA Guides to the Evaluation of Permanent Impairment 5th Edition, (the Guides)*, to determine the permanent impairment associated with the medical condition(s) noted above.

Sincerely,

Robert B., CRS

(Original Electronic Signature)

**Certified Impairment Rating Specialist,
EME International, Inc**

American Academy of Disability Evaluation Physicians

American Academy of Pain Management

American Board of Disability Analysts

Certified Functional Capacity Evaluator

Designated Doctor, Peer Review Doctor

January 19, 2010

Adjuster:

Company:

Address: One Sierra Gate Plaza Suite A200
Roseville CA, 95678-6441

Final Certified PDR: 10%

Claimant Name:		Employer:	Tri-W Manufacturing
Claim Number:		Occupational Group:	370
DOB:	06 01 1952	Job Function:	Welder
DOI:	04 11 2008	Client Code:	
Age at DOI:	55	Ave Wk Wage:	\$0.00
Current Age:	57		

Diagnosis

836.0: tear med menisc knee-cur
727.03: trigger finger
722.10: lumbar disc displacement
719.66: joint symptom nec-l/leg

DISABILITY STRING

16.06.01.04 4%-{1}4%-370H-6%-7% -- R-Thumb - Other
Apportionment: 100%

17.05.03.00 2%-{2}2%-370G-3%-4% -- L-Knee - Arthritis
Apportionment: 70%

Indemnity: Base	\$6,957.50
Minus 15%	\$5,913.88
Add 15%	\$8,001.13

The dollar values here are estimates and may be affected by issues that we are not aware. Please confirm the numbers.

Number of Employees Unknown - Adjuster to follow up with employer

Average Weekly Wage Unknown - Defaulted to Max Weekly Wage

January 19, 2010

Adjuster:

Company:

Address: One Sierra Gate Plaza Suite A200
Roseville CA, 95678-6441

This report is for comparison purposes only. It is generated from the rating doctor's report.

Claimant Name:		Employer:	Tri-W Manufacturing
Claim Number:		Occupational Group:	370
DOB:	06 01 1952	Job Function:	Welder
DOI:	04 11 2008	Client Code:	
Age at DOI:	55	Ave Wk Wage:	\$0.00
Current Age:	57		

PD: 48%

Diagnosis

836.0: tear med menisc knee-cur
727.03: trigger finger
722.10: lumbar disc displacement
719.66: joint symptom nec-l/leg

Disability

15.03.01.00 36%-{5}46%-370G-49%-55% -- Lumbar - Diagnosis-related Estimate
Apportionment: 70%
16.06.01.04 4%-{1}4%-370H-6%-7% -- R-Thumb - Other
Apportionment: 100%
17.05.03.00 2%-{2}2%-370G-3%-4% -- L-Knee - Arthritis
Apportionment: 70%
17.05.05.00 5%-{2}6%-370G-7%-9% -- L-Knee - Muscle Strength
Apportionment: 70%

Indemnity: Base	\$59,110.00
Minus 15%	\$50,243.50
Add 15%	\$67,976.50

The dollar values here are estimates and may be affected by issues that we are not aware. Please confirm the numbers.