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| COURT\_NAME COURT\_VENUE | | **Index No:  IndexOrAAA\_Number** |
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| |  |  |  | | --- | --- | --- | | **PROVIDER\_NAME**  A/A/O **INJUREDPARTY\_NAME**,, | | | |  | | PLAINTIFF, | |  | -AGAINST- |  | | **INSURANCECOMPANY\_NAME**, | | | |  | | DEFENDANT | |  |  |  | | | AFFIDAVIT |
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| STATE OF NEW YORK  COUNTY OF | | ) ss. | | |
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I, Dr. PROVIDER\_PRESIDENT, hereby swear the following to be true under the penalty of perjury:

1. I am a chiropractor duly licensed to practice in the State of New York.
2. I personally reviewed the Independent Medical Examination (IME) report dated **01/15/2013 by John Iozzio. D.C., Lac.,** who determined that, after examining the claimant on **01/15/2013**, further treatment was not medically necessary for injury reportedly sustained in the accident of ACCIDENT\_DATE.

I submit this affirmation of medical necessity on the basis of the documentation provided, medical record and the IME report supplied, in order to come to a conclusion of whether the continued chiropractic treatments and chiropractic re-examinations provided to INJUREDPARTY\_NAME by my office PROVIDER\_NAME from DateOfService\_START to DateOfService\_ENDperformed on the claimant were required and medically necessary for the claimant’s pain and injuries.

1. . INJUREDPARTY\_NAME, a **53-year-old male/female** was a driver/front seat passenger of a vehicle involved in a motor vehicle accident on ACCIDENT\_DATE. As a result of the impact, she sustained injuries to his/her neck, **shoulders, middle back, lower back and left knee**. Following the accident, the patient was taken by ambulance to the emergency room of Lutheran Hospital where he/she was evaluated, treated and released with pain medication. On **4/8/2014**, the patient presented to my office for chiropractic initial evaluation. At that time, he/she complained of **neck pain radiating into the right upper extremity, lower back, knees and shoulders**. **Examination of the cervical and thoraco-lumbar spine revealed decreased range of motion in all planes, tenderness upon palpation at C5-C6, T5-T7 and L4-L5 levels, subluxation at C5-C7, T5-T8 and L4-L5 levels, positive Compression test bilaterally, positive Cervical Distraction test bilaterally, positive shoulder Depression test bilaterally. Neurological examination revealed decreased muscle strength in the upper and lower extremities, hypoesthesia in the right upper extremity and hyperesthesia in the left lower extremity. The patient was then installed on chiropractic care for 4 times a week for the next 4 weeks. On 6/29/2014, the patient presented to Dr. Sayeedus for a re-evaluation. At that time, she complained of headaches, neck pain, back pain, left shoulder pain and left knee pain. Examination revealed limited ranges of motion in all the aforementioned areas. Dr. Sayeedus therefore recommended the patient to continue with the on-going course of physical therapy and ordered ROM/MT. The patient continued with the on-going course of conservative treatment. On 7/28/2014, the patient was called up by defendant insurance company for an independent Medical Examination (IME). This examination was performed by Dr. Ariel Goldin. At that time, Dr. Goldin acknowledge that the patient sustained injuries to the head, neck, mid back, lower back, left shoulder, left elbow, left wrist, left hip, left knee and left ankle in** ACCIDENT\_DATE motor vehicle accident. **Dr. Goldin acknowledges that the patient received a sling, a neck collar, an ace bandage, a cane and a knee brace as a result of this accident. Dr. Goldin acknowledges that the patient underwent left knee surgery on 6/17/2014 as a result of this accident. Dr. Goldin acknowledges that the patient takes Motrin. Further, Dr. Goldin acknowledge complaints of pain in the neck, mid back, lower back, left shoulder, left elbow, left wrist, left hip, left knee and left ankle.**
2. After the IME, on 8/6/2014, the patient presented to Dr. Sayeedus for a re-evalution. At that time, he/she complained of headaches, neck pain, back pain, left shoulder pain and left knee pain. Examination revealed limited ranges of motion in all the aforementioned areas. Dr. Sayeedus therefore recommended the patient to continue with the on-going course of physical therapy and ordered ROM/MT. On 8/27/2014, the patient presented at my office for a chiropractic re-examination. At that time, she complained of radiating neck and lower back pain and pain in the mid back. Based on the patient’s complaints and findings upon examination, she was advised to continue chiropractic care.
3. On 2/26/2015, the patient presented at my office for a chiropractic re-examination. At that time, he/she complained of neck pain radiating into the right upper extremity, lower back pain radiating into the buttocks and thighs and pain in the mid back. Examination of the cervical and thoraco-lumbar spine revealed decreased range of motion in all planes, tenderness upon palpation at C5-C6, T5-T7 and L4-L5 levels, subluxation at C5-C6, T5-T7 and L4-L5 levels, positive Compression test, positive shoulder Depression test, positive SLR test and positive Kemp’s test. Based on the patient’s complaints and findings upon examination, she was advised to continue chiropractic care.
4. The review of the medical records demonstrates, the patient was responding to treatment, but his/her injuries were certainly not resolved as of **8/20/2014**, the date that the insurer determined to deny all future benefits based on the aforementioned IME report. Accordingly, the treatments the patient received were within generally accepted standards of medicine and medically necessary.
5. Chiropractic spinal adjusting has been shown to be significantly superior in the treatment of low back pain compared to hospital outpatient treatment. These benefits of Chiropractic adjusting were still present 3 years after treatment. (British Medical Journal, 1991) Chiropractic spinal adjusting has been shown to be significantly superior to physical therapy mobilizations and manipulations. (Lancet, 1991) 93% of patients with chronic whiplash pain who have failed medical and physical therapy care improve significantly with chiropractic adjustments. (Injury, 1996) Manual manipulative therapy for the treatment of neck pain has been shown to be significantly superior to pain medicines and to exercise. (Annals of Internal Medicine, 2002). Chiropractic spinal adjusting has been shown to be better that 5 times more effective than the prescription nonsteroidal anti-inflammatory pain medicines (NSAIDs) Celebrex and Vioxx in the treatment of chronic neck and low back pain. In addition, the chiropractic treated group suffered from no adverse reactions, while in the drug-treated group, more patients reported an adverse reaction than were benefited. (Spine, 2003). In the treatment of chronic neck and back pain, chiropractic spinal adjusting is not only superior to acupuncture and to pain medicines, it is the only treatment that gave the patient long-term therapeutic benefit one year later, (Journal of Manipulative and Physiological Therapeutics, 2005). In patient suffering from Chronic pain subsequent to degenerative spinal disease, 59% can eliminate the need for pain drugs by consuming adequate levels of omega-3 essential fatty acids. (Surgical Neurology, 2006). In recent publication “A Review of the Evidence for the American Pain Society and the American College of Physicians Clinical Practice Guideline” for the treatment of low back pain, only spinal manipulation was advocated in the treatment of acute, sub-acute and chronic low back pain. (Annals of Internal Medicine, 2007). Top Researches from the University of California, San Francisco and from Harvard Medical School, have determined that “Chiropractic care is more effective than other modalities for treating low back and neck pain.” (Do Chiropractic Services for the Treatment of Low Back and Neck pain improve the value of health benefits plans? An Evidence-Based Assessment of Incremental Impact on Population Health and Total Health Care Spending, 2009).
6. I find the above IME report correct and unreliable based on the following discussion:

Dr. Goldin denied the medical necessity of the Chiropractic treatment based on the patient’s statement that the chiropractic and acupuncture treatments are not helping to relieve pain or improve range of motion for any extended period of time. Despite noting so many positive findings upon his examination: Dr. Goldin simply recommended discontinuation of the chiropractic therapy without suggesting any other therapy. In my opinion, this IME physician is not thinking in the interest of patient but in the interest of the insurance company. Also, it is noteworthy that the patient’s complaints though did not improve, it did not worsen too. There is a high possibility that the patient’s symptoms would worsen if the chiropractic therapy is discontinued. Certainly, this patient was in need of continued chiropractic therapy considering her unimproved symptoms. In addition to the positive findings noted by the IME physician, the post-IME re-evaluation reports from my office, from Dr. Sayeedus and the Chiropractic notes clearly show that the patient continued with the complaints of pain in the neck, mid back and lower back. These conditions indeed required continued course of chiropractic treatment until the patient’s conditions are fully resolved. Also, the post-IME ROM/MT reports showed positive results thereby confirming that the patient’s injuries were not resolved at the time of Dr. Goldin’s IME. Assuming the IME report is accurate as to findings on exam, one cannot get an accurate picture of a patient’s overall condition without considering all subsequent exams, which apparently is the case, as the IME report did not encompass any subsequent evaluations, diagnostic test reports and chiropractic progress notes. Moreover, a patient’s condition can appear to improve one day, but exacerbate a subsequent day, particularly as the IME report acknowledges certain positive complaints and findings on exam. The treating physician who is responsible for the care and treatment of the patient is in the best position to determine the need for continued treatment. The IME physician, on the other hand, who was retained by the insurance carrier, has no responsibility for the patient’s best interests.

1. The IME report does not establish that the chiropractic therapy and chiropractic re-evaluation performed by my office PROVIDER\_NAME would not be medically necessary. Moreover, based on the foregoing, the services rendered by PROVIDER\_NAME were, in fact, medically necessary as an appropriate part of treatment for his patient.
2. Respectfully Dr. Wolin’s examination of Mr. Baez was merely several minutes long and did not include a detailed history and analysis of the patient’s condition. By having a physician-patient relationship, I have been able to get to know and understand the injuries that were inflicted to Mr. Baez, I was able through follow-up evaluations and conversations get a feeling for patient’s needs, that Dr. Wolin with his one brief exam has no way of qualifying and evaluating.
3. Specifically, with reference to the chiropractic treatment notes for dates of service 03/04/2013-12/26/2013, the patient continued to complain of sharp neck pain, sharp mid back pain and sharp lower back pain. I reviewed my initial examination report dated 11/04/2012. Also, I reviewed re-examination reports generated during office visits on 01/24/2013, 04/04/2013 and 01/16/2014. Throughout the entire span of treatment, the patient continued to complain of back pain. I observed restricted range of motion in the neck and back. Various orthopedic tests were positive. For example, the 04/04/2013 evaluation revealed positive Compression, Shoulder Depressor, Straight Leg Raising, and Kemp’s tests.
4. I am of the opinion that the chiropractic treatments were medically necessary.

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dr. Todd Lawrence Lebson

Sworn to before me on

this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2016

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PROVIDER\_PRESIDENT