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Notice of Independent Review Decision

DATE OF REVIEW: 01/21/09

IRO CASE NO.:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE:

Item in dispute: Chronic pain management 10 sessions

A DESCRIPTION OF THE QUALIFICATIONS FOR EACH PHYSICIAN OR OTHER HEALTH CARE PROVIDER WHO REVIEWED THE DECISION

Texas Licensed Psychologist

REVIEW OUTCOME

Upon independent review, the reviewer finds that the previous adverse determination/adverse determination should be:

Denial Upheld

INFORMATION PROVIDED TO THE IRO FOR REVIEW

1. Peer review by Dr. dated 03/31/06
2. Independent Medical Evaluation by Dr. dated 06/14/06
3. Request for extension dated 08/31/06
4. Medical records Dr. dated 08/31/06 thru 01/02/09
5. Operative report dated 09/07/06
6. Operative report dated 09/26/06
7. Discharge summary dated 09/29/06
8. Lumbar spine evaluation dated 01/17/07
9. Lumbar spine evaluation dated 03/15/07
10. Medical records Dr. dated 03/28/07 thru 06/13/07
11. Work conditioning weekly progress report dated 08/30/07
12. Chronic pain evaluation dated 10/11/07
13. Individualized plan of treatment dated 10/11/07
14. Individual psychotherapy progress notes dated 11/21/07, 11/27/07, 12/04/07, 01/28/08, 01/30/08, 02/04/08, 02/13/08, 02/19/08
15. Chronic pain program health and behavioral intervention dated 01/21/08

16. Work hardening program health and behavioral intervention note dated 02/04/08, 02/06/08, 02/11/08, 02/13/08, 02/18/08
17. Interdisciplinary case conference dated 02/21/08
18. Functional Capacity Evaluation dated 03/12/08
19. Letter from Dr. dated 09/12/08
20. Chronic pain evaluation dated 10/16/08
21. Pre-program physical therapy evaluation dated 10/16/08
22. Psychosocial assessment dated 10/16/08
23. Consultation for chronic pain program dated 10/16/08
24. Written chronic pain rehabilitation contract dated 10/16/08
25. Preauthorization request for the chronic pain program dated 10/21/08
26. Medical conference with physician dated 10/30/08
27. Adverse determination letter dated 10/31/08
28. Preauthorization request for the chronic pain program (reconsideration) dated 11/11/08
29. Adverse determination letter dated 12/01/08
30. Request for the chronic pain program to be presented for medical dispute resolution dated 12/19/08
31. **Official Disability Guidelines**

PATIENT CLINICAL HISTORY (SUMMARY):

The employee is a xx year old male who reportedly strained his back while pushing a stalled golf cart on xx/xx/xx.

The first available medical record is a peer review dated 03/31/06 performed by Dr . The claimant reportedly had a history of previous lower back injury resulting in a lumbar fusion surgery in 1997. An MRI dated 10/14/04 reportedly showed evidence of previous lumbar surgery as well as degenerative and slightly bulging discs from L3 to S1. A lumbar myelogram/CT dated 11/11/04 reportedly reinforced the MRI findings. The claimant continued with complaints of back pain not relieved by any medication or therapy. An EMG/NCV performed on 11/10/04 reportedly showed mild chronic L5 radiculopathy. Dr. reportedly felt the claimant had failed back syndrome and performed multiple epidural steroid injections which did not provide any relief. The employee underwent a Required Medical Evaluation (RME) on 07/18/05 which reportedly found that the employee had failed to respond to all medical treatment, and since he was not a surgical candidate, no further treatment was indicated. A psychological evaluation reportedly showed much psychological overlay to this condition. Dr. found that the current complaints were not related to the compensable injury of xx/xx/xx and stated that the employee had preexisting degenerative back changes and previous surgery and the injury of 09/11/04 was an acute soft tissue, myofascial back strain that reasonably would have resolved in six to twelve weeks. Dr. opined that the employee's persistent complaints of back pain were a "failed back syndrome" related to his first surgery in 1997. No further treatment was found to be indicated for the xx/xx/xx injury.

The employee was seen for an Independent Medical Evaluation (IME) on 06/13/06 by Dr. . It was reported that the employee underwent a Functional Capacity Evaluation (FCE) on 07/18/05, and during the evaluation the employee was performing a floor to

overhead lift with a basket containing three weights. The employee had a burning in his back and reported that he had not been the same since that time. The diagnoses were listed as back pain with lower extremity radiculopathy; clinical and electrodiagnostic evidence of residual neuropathic pain, left lower extremity; status post remote L5-S1 fusion; and hardware pain with possible residual nonunion of remote fusion. Dr. found that "something took place during the FCE that exacerbated or aggravated the examinee's lumbar spine". Dr. supported hardware removal and fusion exploration. A request for extension of MMI date from Dr. indicated that the employee's estimated return to work date was June, 2007.

The employee underwent hardware removal and exploration of fusion on 09/07/06. The employee's fusion was found to be solid. Postoperative office visit reported good progress status post hardware removal and exploration of fusion L5-S1.

A follow up examination dated 09/26/06 reported that the employee had developed a lumbar wound infection with 102.7 temperature and a swollen and erythematous wound. On 09/26/06, the employee underwent irrigation and debridement of wound and wound closure over Hemovac drain. The employee's cultures were negative.

Follow up examination dated 12/05/06 reported that the employee was making steady improvement with his therapy.

A note dated 12/12/06 reported that the employee was at MMI with a 5% whole person impairment rating. Arrangements were reportedly being made to gradually return him to the workplace with temporary restrictions.

A letter dated 03/02/07 indicated that the employee had completed seven postoperative physical therapy sessions to date and additional physical therapy had been denied. In addition, the employee's employer had requested a psychiatric clearance as part of his return to work status.

A follow up note dated 06/13/07 indicated that the employee had lost 40 pounds and was down to 241 pounds.

A follow up note dated 07/23/07 indicated that the employee underwent an FCE, and it was recommended that the employee be placed at a light-medium work duty status as well as a work conditioning program to prepare the employee for return to work.

Records indicate that the employee underwent approximately eight sessions of a work conditioning program at . A work conditioning weekly progress report dated 08/30/07 indicated that the employee's reported pain level started at 2.5-4/10 and after three weeks was 4/10, physical demand level was light, and lifting ability actually decreased. The employee's range of motion improved slightly and manual muscle testing remained constant.

A progress note dated 09/17/07 reported that the employee had lost 100 pounds and was down to 223 pounds. The employee reportedly had trouble the second week of the program secondary to increased pain.

An addendum dated 09/19/07 recommended a comprehensive pain management program to assist with pain relief with a minimum of medications.

The employee underwent chronic pain evaluation on 10/11/07. The evaluation stated that the employee had completed two weeks in the work conditioning program; however, his pain levels increased and he began to “exhibit increased emotional involvement”. The employee was then recommended to participate in a chronic pain management program. The employee reports decreased social life and some depression as well as feelings of anxiety, frustration and irritability. The employee was not taking any psychiatric medications at that time.

A note dated 12/17/07 indicated that the employee had lost 100 pounds and was down to 220-225 pounds.

The employee completed eight sessions of individual psychotherapy between 11/21/07 and 02/19/08. The most recent progress note dated 02/19/08 indicated that the employee reported he was very hopeful that he would find employment soon. The employee reported that he had learned many things that have helped his attitude and allowed him to see his strength instead of his weaknesses. The employee underwent approximately seven sessions of health and behavioral intervention as well.

The most recent progress note dated 02/18/08 indicated that the employee was using a modified breathing technique in conjunction with healing imagery in his daily practice. The employee had decreased his medication, lost weight, and developed upper body strength.

An interdisciplinary case conference form for work hardening dated 02/21/08 indicated that the employee had completed seventeen sessions of a work hardening program. The employee’s pain level had remained constant at 1-2/10. Pain behaviors had reportedly improved from moderate to minimal to none. The employee’s physical demand level had improved from light to light-medium. Lifting ability had improved, functional abilities had improved, and range of motion had improved. Manual muscle testing was 5/5 throughout. BDI improved from 9 to 0 and BAI improved from 3 to 0. The employee was able to decrease usage of Norco.

The employee underwent an FCE on 03/12/08 which reported that the employee showed consistent and valid effort, and reported that the employee was recommended to be discharged to return to work at a light-medium capability as an . Dr. recommended that the employee return to light duty work and limit driving to two hours at a time. It was reported that the employee had met 5/6 goals secondary to the work conditioning program, but due to his other medical factors, his ability to perform his work tasks on an eight hour or more per day basis was questionable. Medications were listed as Zanaflex, Norco, Atarax, Dexamethasone and Tylenol sinus.

A clinic note dated 03/24/08 reported that a chronic pain management program had not been approved, and that the employee was diagnosed with colon cancer in January, 2008. The employee has been undergoing chemotherapy and had a transfusion for anemia.

A letter from the employee's treating physician dated 09/12/08 indicated that the employee began experiencing side effects from some of the chemotherapy drugs and was bedridden from the nausea and intestinal discomfort. The employee was hospitalized in May, 2008 for three days and developed neutropenia. It was reported that during the last several months of the employee's treatment, he would have experienced a great deal of difficulty working more than a few hours a week.

The employee underwent a chronic pain evaluation on 10/16/08. The employee stated that because of his pain, he had ongoing problems with decreased social life. The employee reported that he was at the brink of bankruptcy and his car may be repossessed. It was noted that the employee was at a medium physical demand level and able to lift about 50 pounds after the work hardening program, and now could only lift 10 pounds. The employee reported feeling depressed, anxious, frustrated, and irritable and stated that he sometimes felt like giving up. Current medications were listed as Ultram and Zanaflex. BDI was reported as 52 and BAI was 43. It should be noted that on the FCE performed in March, BDI and BAI were both reported as 0. Pre-program physical therapy evaluation reported the employee's weight as 269 pounds. The employee reportedly really wanted to get back to work.

A psychosocial assessment dated 10/16/08 indicated that the employee had been diagnosed with low back pain and chronic pain syndrome. The employee's family was reportedly worried about him as he had become depressed and irritable. The employee reportedly had difficulty standing for any length of time, sitting, or stooping. It was reported that previous therapies had been unsuccessful, and the employee continued to present with significant loss of function. The employee was not a surgical candidate and was now at a tertiary level of care according to the evaluation. The employee was opined to be an appropriate candidate for a chronic pain management program.

The request for a chronic pain management program was denied on 10/31/08 with the reviewer expressing concern as to why the claimant had completed a work hardening program without agreement from his employer that he had a job to return to. It was also reported that per FCE testing, the employee was capable of working in the position he was interested in. The employee was reportedly capable of performing up to 4 METS, which is equivalent to "moderate prolonged physical work". The reconsideration request indicated that at the time the employee did have a job to return to, and that the FCE reported that the employee needed to improve job demand levels in order to successfully return to work.

A second denial was received on 12/01/08 noting that although the colon cancer set the employee back, the employee was fully treated with a work hardening program and he achieved great results. It was noted that the employee had learned all of the skills he needed and had effectively utilized them in the past. The reviewer opined that the employee's failure to utilize these skills now did not justify a chronic pain management program. The request for chronic pain program was to be presented for medical dispute resolution dated 12/19/08 and reported that the employee's treating physician would like to discontinue the employee's use of medications, and therefore, the employee was an appropriate candidate for chronic pain management program.

A follow up examination from Dr. dated 01/02/09 indicated that the employee underwent sacroiliac injection on 01/02/09.

ANALYSIS AND EXPLANATION OF THE DECISION INCLUDE CLINICAL BASIS, FINDINGS, AND CONCLUSIONS USED TO SUPPORT THE DECISION.

I concur with the two previous reviewers that the requested chronic pain management program is not medically necessary. The employee reportedly sustained an injury to his low back on xx/xx/xx as a result of pushing a stalled golf cart. The employee was noted to have a previous history of lumbar fusion at L5-S1 in 1997.

A peer review performed in March 2006 found that the employee's current complaints were not related to the injury of xx/xx/xx, but were a result of the previous fusion and preexisting degenerative changes. At that time, it was noted that a psychological evaluation indicated significant psychological overlay to the employee's condition. No further treatment was recommended at that time for the xx/xx/xx injury.

The employee subsequently underwent hardware removal and a request for extension of MMI date indicated that the employee's estimated return to work date was June of 2007.

The employee subsequently underwent eight sessions of work conditioning in August and September of 2007 but was unable to complete the program secondary to increased pain and "increased emotional involvement."

The employee then completed a course of individual psychotherapy and health and behavioral interventions and was enrolled in a work hardening program on 01/21/08 and completed seventeen sessions. The employee was able to decrease medication usage, decrease Beck scores to 0 and improve his physical demand level to light-medium. It was recommended at that time that the employee return to work at light duty and limit driving to two hours at a time.

Unfortunately, the employee was diagnosed with colon cancer in January, 2008 and underwent chemotherapy which has reportedly set the employee's progress back. A subsequently chronic pain evaluation found the employee's BDI was 52 and BAI was 43, a significant increase in the seven months since both Beck scores were reported as 0. The employee was only able to lift 10 pounds at that time and reported that he sometimes felt like giving up. Although the chronic pain evaluation indicated that previous treatments had failed, the work hardening program benefited the employee significantly.

Current evidence-based guidelines do not recommend repeating the same or similar rehabilitation programs such as work hardening programs. The employee has completed both a work conditioning program in 2007 as well as a work hardening program in 2008 with reported significant improvement in functional status, range of motion, lifting, Beck scores and decreased medication usage. In addition, the ***Official Disability Guidelines*** do not recommend chronic pain management programs for patients with a date of injury greater than two years old, and this employee's date of injury is over four years old.

Given the chronicity of the employee's injury as well as participation in two previous similar rehabilitation programs, ten sessions of a chronic pain management program at this time is not appropriate for this employee and is not authorized.

A DESCRIPTION AND THE SOURCE OF THE SCREENING CRITERIA OR OTHER CLINICAL BASIS USED TO MAKE THE DECISION

1. ***Official Disability Guidelines*** from Chronic Pain Chapter, updated 01/05/09.

Criteria for general use of multidisciplinary pain management programs:

Patients with chronic pain syndrome, with pain that persists beyond 3 months including 3 or more of the following: A) Use of prescription drugs beyond the recommended duration and/or abuse or dependence on prescription drugs or other substances; B) Excessive dependence on health care provider, spouse, or family; C) Secondary physical deconditioning due to disuse and/or fear or avoidance of physical activity due to pain; D) Withdrawal from social no how, including work, recreation, and/or other social contact; E) Failure to restore a pre-injury function after a period disability such as physical capacity as insufficient to pursue work, family, or recreational needs; F) Development of psychosocial sequelae after initial incident, including anxiety, fear-avoidance, depression, or non-organic illness behaviors; G) Diagnosis is not primarily a personality disorder or psychological condition without physical component.

1. The patient has significant loss of ability to function independently resulting from chronic pain.
2. Previous methods of treating the chronic pain have been unsuccessful.
3. The patient is not a candidate for further diagnostic injections or invasive surgical procedures.
4. Inadequate and thorough multidisciplinary evaluation has been made, including pertinent diagnostic testing to rule out treatable physical condition, baseline function, and psychological evaluation, so follow-up with next test can note functional and psychological improvement.
5. The patient exhibits motivation to change and is willing to decrease opiate dependents and forgo secondary gains including disability payments to affect the change.
6. Negative predictors of excess have been addressed.
7. These programs may be used for both short and long term disabled patients.
8. Treatment is not suggested for longer than 2 weeks without evidence of compliance and significant discriminated efficacy.
9. Total treatment duration should not generally exceed 20 full day sessions.
10. At the conclusion and subsequently neither rim moment nor repetition of same similar rehabilitation program is medically warranted for same condition or injury.