



Notice of independent Review Decision

DATE OF REVIEW: December 7, 2010

IRO Case #:

Description of the services in dispute:

Additional chronic pain management program 5x2 (8 hours/day) lumbar – #97799

A description of the qualifications for each physician or other health care provider who reviewed the decision

The physician who provided this review is board certified by the American Board of Physical Medicine & Rehabilitation in General Physical Medicine & Rehabilitation and Pain Medicine. This reviewer has been in active practice since 2005.

Review Outcome

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

Based on ODG guidelines, the request for an additional chronic pain management program 5x2 (8 hours/day) lumbar – #97799 is not medically necessary.

Information provided to the IRO for review

Records received from the State:

Notice to Medical Review Institute of America, Inc of Case Assignment, 11/17/10 (1 page)
Confirmation of receipt of a request for review by an independent review organization (IRO), 11/16/10 (5 pages)

Request for review by an independent review organization form, 11/15/10 (2 pages)

Workers' Comp Services, Prior review, 11/09/10 (5 pages)

Workers' Comp Services, Prior review, 10/22/10 (4 pages)

Records received from the Attorney:

Letter from the Law Offices 11/22/10 (8 pages)

Records received for the Carrier:

Notice of assignment of independent review organization, 11/17/10 (1 page)

Chronic pain management program, Progress note, week #11, 10/07/10 (5 pages)

Letter DO, 10/06/10 (1 page)

Chronic pain management program, Progress note, week #10, 09/30/10 (5 pages)

Chronic pain management program, Progress note, week #9, 09/23/10 (5 pages)

Chronic pain management program, Progress note, week #8, 09/16/10 (4 pages)

Chronic pain management program, Progress note, week #6, 09/02/10 (4 pages)

Chronic pain management program, Progress note, week #3, 08/12/10 (4 pages)

Chronic pain management program, Progress note, week #2, 08/05/10 (4 pages)
Chronic pain management program, Treatment plan, week #1, 07/29/10 (3 pages)
Healthcare Systems, Examination findings, 07/07/10 (2 pages)
Letter from the Law Offices signed 11/22/10 (8 pages)
Workers' Comp Services, Prior review, 11/09/10 (5 pages)
Workers' Comp Services, Prior review, 10/22/10 (4 pages)
Evaluation Center, Physical performance evaluation, 10/29/10 (17 pages)
laboratories, urine drug test, 09/13/10 (1 page)
Chronic pain management program, Progress note, week #11, 10/07/10 (5 pages)
Healthcare Systems Employee time card, 10/04/10 to 10/08/10 (1 page)
laboratories, urine drug test, 10/14/10 (2 pages)
Chronic pain management program, Weekly goal sheet, 10/05/10 (3 pages)
Chronic pain management program, Progress note, 10/05/10 (3 pages)
Chronic pain management program, daily notes, 10/05/10 (4 pages)
Chronic pain management program, Progress note, week #10, 09/30/10 (7 pages)
Chronic pain management program, Progress note, 09/16/10 (2 pages)
Chronic pain management program, Progress note, 09/29/10 (4 pages)
Chronic pain management program, Progress note, 09/28/10 (4 pages)
Healthcare Systems Employee time card and activity notes from 09/27/10 to 09/30/10 (13 pages)
Chronic pain management program, Progress note, 09/27/10 (4 pages)
Chronic pain management program, Progress note, week #9, 09/23/10 (5 pages)
Healthcare Systems Employee time card, 09/21/10 to 09/23/10 (1 page)
Chronic pain management program, Progress note, 09/23/10 (4 pages)
Chronic pain management program, Progress note, 09/22/10 (4 pages)
Healthcare Systems Employee activity notes, 09/20/10 to 09/24/10 (1 page)
Chronic pain management program, Progress note, 09/21/10 (4 pages)
Healthcare Systems Employee activity notes, 09/20/10 to 09/24/10 (11 pages)
laboratories, lab report, 09/10/10 (1 page)
Evaluation Center, physical performance evaluation, 09/03/10 (6 pages)
Chronic pain management program, Progress note, week #8, 09/16/10 (2 pages)
Chronic pain management program, Progress note, 09/15/10 (4 pages)
Healthcare Systems Employee time card, 09/13/10 to 09/17/10 (1 page)
Chronic pain management program, Progress note, 09/14/10 (4 pages)
Healthcare Systems Employee activity notes, 09/13/10 to 09/17/10 (7 pages)
Functional evaluation, 09/22/10 (14 pages)
Chronic pain management program, Progress note, week #6, 09/02/10 (4 pages)
Healthcare Systems Employee time card, 08/30/10 to 09/03/10 (1 page)
Spinal Clinic, PA, Clinic note, 09/01/10 (1 page)
Chronic pain management program, Progress note, 09/01/10 (4 pages)
Healthcare Systems Employee activity notes, 08/30/10 to 09/03/10 (4 pages)
Clinic note, 08/19/10 (1 page)
Healthcare Systems Employee time card, 08/16/10 to 08/20/10 (1 page)

Chronic pain management program, Progress note, week #4, 08/19/10 (3 pages)
Chronic pain management program, Progress note, 08/20/10 (4 pages)
Healthcare Systems Employee activity notes, 08/16/10 to 08/20/10 (4 pages)
Chronic pain management program, Progress note, 08/19/10 (4 pages)
Healthcare Systems Employee activity notes, 08/16/10 to 08/20/10 (4 pages)
Chronic pain management program, Progress note, 08/18/10 (4 pages)
Healthcare Systems Employee activity notes, 08/18/10 (4 pages)
Chronic pain management program, Progress note, 08/06/10 (4 pages)
Healthcare Systems Employee activity notes, 08/04/10 to 08/06/10 (5 pages)
Chronic pain management program, Progress note, 08/05/10 (4 pages)
Healthcare Systems Employee activity notes, 08/04/10 to 08/05/10 (4 pages)
Chronic pain management program, Progress note, 08/04/10 (5 pages)
Healthcare Systems Employee activity notes, 08/04/10 (4 pages)
Chronic pain management program, Progress note, 07/30/10 (4 pages)
Healthcare Systems Employee activity notes, 12/27/10 to 12/30/10 (1 page)
Healthcare Systems Employee activity notes, 07/27/10 to 07/28/10 (3 pages)
Chronic pain management program, Treatment plan, 07/27/10 (3 pages)
Healthcare Systems Employee time card, 07/26/10 to 07/30/10 (1 page)
Chronic pain management program, Progress note, 07/28/10 (3 pages)
Healthcare Systems Employee activity notes, 12/27/10 to 12/30/10 (1 page)
Healthcare Systems Employee activity notes, 07/27/10 to 07/28/10 (3 pages)
Chronic pain management program, Progress note, 07/27/10 (2 pages)
Healthcare Systems Employee activity notes, 07/27/10 (4 pages)
Chronic pain management program, Progress note, 07/28/10 (1 page)
Spinal Clinic, PA, Clinic note, 07/22/10 (3 pages)
Spinal Clinic, PA, Encounter summary, 07/22/10 (2 pages)
Healthcare Systems, Examination findings, 07/07/10 (2 pages)
laboratories, lab report, 07/12/10 (1 page)
Evaluation Center, physical performance evaluation, 06/21/10 (17 pages)
Spinal Clinic, PA, Encounter summary, 06/03/10 (2 pages)
MD, updated peer review, 05/25/10 (3 pages)
Spinal Clinic, PA, Clinic note, 05/20/10 (2 pages)
Spinal Clinic, PA, Encounter summary, 05/20/10 (2 pages)
Evaluation Center, physical performance evaluation, 04/30/10 (17 pages)
Rehabilitation Center, functional abilities evaluation, 03/17/10 (17 pages)
Spinal Clinic, PA, Clinic note, 02/18/10 (2 pages)
Spinal Clinic, PA, Encounter summary, 02/18/10 (2 pages)
Spinal Clinic, PA, Clinic note, 02/22/09
Post-myelogram report, 01/13/09 (2 pages)
Spinal Clinic, PA, Consultation of initial office note, 11/20/08 (2 pages)
Spinal Clinic, PA, Encounter summary, 11/10/08 (1 page)
Texas workers' compensation work status report, 10/17/08 (1 page)

Progress note, 10/17/08 (2 pages)
Progress note, 10/03/08
Texas workers' compensation work status report, 10/02/08
Solutions, re examination, 07/09/08 (6 pages)
Report of medical evaluation, 07/09/08 (1 page)
Clinic note, MD, 03/14/08 (2 pages)
Texas workers' compensation work status report, 02/13/08 (1 page)
Solutions, re examination, 02/09/08 (5 pages)
Report of medical evaluation, 02/06/08 (1 page)
Ltd., drug screen, 01/31/08 (1 page)
Clinic note, MD, 01/25/08 (6 pages)
Spinal Clinic, PA, Clinic note, 11/26/07 (1 page)
Spinal Clinic, PA, Clinic note, 10/11/07 (1 page)
Solutions, Supplemental report, 09/10/07 (2 pages)
Imaging Center MRI report, 08/31/07 (2 pages)
Solutions, Clinic note, 08/29/07 (6 pages)
Report of medical evaluation, 08/15/07
Texas workers' compensation work status report, 09/23/05 (1 page)
MD, peer review, 08/13/07 (3 pages)
Spinal Clinic, PA, Clinic note, 08/09/07 (1 page)
Spinal Clinic, PA, Clinic note, 03/15/07 (1 page)
Spinal Clinic, PA, Clinic note, 12/28/06 (1 page)
Texas workers' compensation work status report, 12/12/06
Clinic note, DO, 12/12/06 (1 page)
Clinic note, DO, 11/07/06 (1 page)
Operative report, MD and John Hall, DO, 09/27/06 (2 pages)
Texas workers' compensation work status report, 07/05/06 (1 page)
DME prescription, 09/27/06 (1 page)
Texas workers' compensation work status report, 11/07/06 (1 page)
Texas Spinal Clinic, PA, 08/29/06 (1 page)
Clinic note, 08/17/06 (1 page)
Texas workers' compensation work status report, 06/17/06 (1 page)
Imaging Center, Lumbar myelogram, 07/24/06 (3 pages)
Electrodiagnostic study, DO, 07/17/06 (2 pages)
clinic note, 07/05/06 (2 pages)
Spinal Clinic, Clinic note, 06/29/06 (3 pages)
Clinic note, DO, 05/26/06 (1 page)
DME prescription, 05/26/06 (1 page)
Spinal clinic, prescription, 05/26/06 (1 page)
Texas workers' compensation work status report, 05/26/06 (1 page)
Texas workers' compensation work status report, 04/27/06 (1 page)
Clinic note, 04/27/06 (1 page)

Clinic note, DO, 03/31/06 (2 pages)
Work status report, 03/31/06 (1 page)
Texas workers' compensation work status report, 03/16/06 (1 page)
Clinic note, 03/16/06 (1 page)
Texas workers' compensation work status report, 02/15/06 (1 page)
Clinic note, 02/23/06 (4 pages)
Clinic note, DO, 01/05/06 (2 pages)
Clinic note, DO, 02/02/06 (2 pages)
Texas workers' compensation work status report, 11/17/05 (1 page)
Clinic note, 12/20/05 (2 pages)
Clinic note, DO, 12/07/05 (2 pages)
Clinic note, DO, 11/19/05 (2 pages)
Clinic note, DO, 11/12/05 (2 pages)
Clinic note, 11/17/05 (2 pages)
Texas workers' compensation work status report, 10/18/05 (1 page)
Clinic note, DO, 10/26/05 (2 pages)
DME prescription, 10/26/05 (1 page)
Clinic note, 10/18/05 (2 pages)
Texas workers' compensation work status report, 10/12/05 (1 page)
Imaging, MRI report, 10/14/05 (2 pages)
Clinic note, 10/12/05 (2 pages)

Texas workers' compensation work status report, 10/06/05 (1 page)
Clinic note, 10/06/05 (2 pages)
Texas workers' compensation work status report, 12/20/05 (1 page)
Texas workers' compensation work status report, undated (1 page)

Patient clinical history [summary]

The patient is a male who sustained an injury on xx/xx/xx when he stepped off of a loader and injured his lower back. The patient saw Dr. on 10/06/05 with complained of very mild low back pain. The patient stated his range of motion was good. The patient denied radiation, numbness, or weakness. The patient denied bowel or bladder dysfunction. Physical exam revealed negative straight leg raise. There was mild tenderness over the lower back. The patient was assessed with lumbar strain. The patient was recommended for 3 sessions of physical therapy. The patient was seen for follow up on 10/12/05. The patient presented with continued pain complaints. The patient stated he twisted while sweeping and aggravated the pain. The patient stated he was unable to completely void. Physical exam reveals moderate tenderness to palpation of the lumbar spine. There was no palpable spasm during exam. Range of motion was painful. Straight leg raise was negative. The patient was recommended for MRI of the lumbar spine. MRI of the lumbar spine performed on 10/14/05 demonstrated a large left paramedian disc herniation at L5-S1. There was a small right paramedian disc protrusion/herniation with a small annular tear at L4-5. The thecal sac was slightly small on a congenital basis at L2-3 through L5-S1. There was slight posterior

annular bulging at T11–12. The patient underwent epidural steroid injection at L5–S1 on 11/12/05, 12/07/05, 02/02/06, and 03/31/06.

Electrodiagnostic studies performed on 07/17/06 revealed evidence of an acute right L5 and right S1 motor radiculopathy. There were no signs of polyneuropathy of the bilateral lower extremities. Lumbar myelogram performed on 07/24/06 demonstrated a small left posterolateral disc herniation at L5–S1. There was a contour defect of the thecal sac on the right at L4–5. There was ankylosis of the left sacroiliac joints. The patient underwent microscopic hemilaminectomy on the right at L4–5, decompression of the right L5 nerve root, and discectomy on the right at L4–5 on 09/27/06. The patient was seen for Designated Doctor Evaluation on 08/15/07. The patient complained of low back pain and pain down the left leg. The patient reported numbness in the plantar aspect of the feet. Physical exam revealed spasm in the back on the right side. There was limited range of motion of the back. Straight leg raise was positive bilaterally. There was full range of motion of the hips, knees, and ankles. There was decreased sensation on the dorsum of the right foot, but there was no weakness with toe or heel standing. The patient was not placed at maximum medical improvement (MMI) at that time. MRI of the lumbar spine performed on 08/31/07 demonstrated multilevel degenerative disc disease, most prominent at L4–5 where there was a right paracentral disc protrusion encroaching upon the lateral recess of the canal and encroachment on the right L5 nerve root. There was an associated annular tear at the L4–5 disc space level corresponding to the previously noted right paracentral disc protrusion.

The patient was seen for Designated Doctor Evaluation on 02/06/08. The patient complained of significant pain in the back rating 6 out of 10 on the VAS scale. The pain worsened with prolonged sitting or standing. The patient reported sleep disturbance due to pain. Physical exam revealed spasm of the back and decreased lordosis. Straight leg raise caused pulling on the right leg at 60 degrees and pain in the left leg at 45 degrees. There was decreased sensation on the dorsum of the right foot and the plantar of the left foot. The patient was not placed at MMI at this time. The patient was seen for Designated Doctor Evaluation on 07/09/08. Physical exam revealed spasm of the back. There was pain with lumbar range of motion. There was pain with toe and heel standing. The patient was placed at MMI and was assigned a 10% whole person impairment. CT of the lumbar spine post-myelogram performed on 01/13/09 demonstrated marked congenital spinal canal stenosis. There were no disc bulges or disc protrusions. There was no additional compromise of the spinal canal or neural foramina. There were degenerative changes of the left sacroiliac joint. A Functional Capacity Evaluation performed on 03/17/10 revealed the patient was able to perform at a sedentary physical demand level. The patient's occupation requires a medium physical demand level. A Physical Performance Evaluation was performed on 04/30/10. The patient's occupation requires a medium physical demand level. The patient was functioning at a sedentary physical demand level. The patient underwent an epidural steroid injection at the left sided L5–S1 epidural space on 05/20/10. The patient was started on Cymbalta at this time due to depression.

A Physical Performance Evaluation was performed on 06/21/10. The patient's occupation requires a medium physical demand level. The patient was functioning at a light physical demand level. The

patient saw Dr. on 07/07/10 with complaints of back pain and bilateral leg pain. The patient rates the pain at 8 out of 10 on the VAS scale. Physical exam revealed good motor strength and sensation was grossly intact to light touch in the lower extremities. Straight leg raise was positive on the right. The patient was assessed with failed back syndrome and depression. The patient was recommended for a chronic pain management program. The patient underwent an epidural steroid injection to the left sided L5-S1 epidural space on 07/22/10. The patient began a chronic pain management program on 07/27/10. The patient's initial BDI score was 32 and his initial BAI score was 37. The patient reported feelings of anxiety, depression, lowered self-esteem, and high levels of frustration/anger. The note stated the patient's occupation as a heavy equipment operator requires a heavy physical demand level. The patient's initial physical demand level was light. The patient was recommended for 20 sessions. A weekly progress note dated 08/05/10 stated the patient was making good effort and was improving his strength and endurance. The patient stated his symptoms of depression were improving. The patient was functioning at a light physical demand level, lifting 15 pounds occasionally.

A weekly progress note dated 08/12/10 stated the patient was showing full effort and was able to participate successfully in most activities. The patient was currently functioning at a light physical demand level, lifting 15 pounds occasionally. A weekly progress note dated 09/02/10 stated the patient has increased his lifts, cardio, and positional tolerance, but he continues to have issues with attendance. The patient was currently functioning at a medium physical demand level, lifting 25 pounds occasionally. A Physical Performance Evaluation was performed on 09/03/10. The patient's occupation requires a medium physical demand level. The patient was functioning in the sedentary to light physical demand level. A weekly progress note dated 09/16/10 stated the patient has demonstrated minimal progress due to long breaks and inconsistency in attendance. The note stated the patient was helping care for his family and has a hard time attending his sessions. The patient was currently functioning at a medium physical demand level, lifting 20 pounds occasionally. A weekly progress note dated 09/23/10 stated the patient has shown slight improvement in positional tolerances and work activities. The patient has limited progress due to inability to attend consistently. The patient was functioning at a medium physical demand level, lifting 25 pounds occasionally. A weekly progress note dated 09/30/10 stated the patient's lifts, positional tolerance, cardio, and work levels had improved dramatically. The patient was functioning at a medium physical demand level, lifting 25-40 pounds occasionally.

The patient saw Dr. on 10/06/10. The note stated the patient was taking Vicodin 7.5mg twice daily. The patient was recommended for additional chronic pain management sessions to aid in reducing his Vicodin. A weekly progress note dated 10/07/10 stated the patient had almost tripled his lifts during his 20 pain management sessions. The note stated he was on track to exceed his required lifts within another 10 sessions. The patient's BDI score was 21 and his BAI score was 43. The patient was functioning at a medium physical demand level, lifting 40 pounds occasionally. The patient was recommended for an additional 10 sessions to complete the program with successful attainment of established goals. The request for chronic pain management program x10 sessions was denied by utilization review on 10/22/10 due to the injury being over 5 years old.

The patient has improved his physical demand level, decreased his narcotic pain medications, and decreased his BAI and BDI scores after completing a 20 day program. The request for chronic pain management program x10 sessions was denied by utilization review on 11/09/10 due to the injury being over 5 years old. The patient has recently completed 20 sessions of a chronic pain management program. Treatment duration in excess of 160 hours requires a clear rationale for the specified extension and reasonable goals to be achieved. The submitted treatment goals are non-specific and generalized, and there are no exceptional factors of delayed recovery documented to support exceeding evidence based recommendations.

Analysis and explanation of the decision include clinical basis, findings and conclusions used to support the decision.

Based on the clinical documentation provided for review, the prior denials should be upheld. The patient has already completed a 20 day chronic pain management program and there is limited evidence of any significant continuing functional or psychological deficit that would reasonably require additional therapy through a chronic pain management program. Current evidence based guidelines indicate that patient's must have a clear rationale for continuing chronic pain management programs for more than 160 hours or 20 days. The patient has improved both functionally and psychologically and there is no clear evidence to warrant continuation of a chronic pain management program.

A description and the source of the screening criteria or other clinical basis used to make the decision:

Official Disability Guidelines, Online Version, Pain Chapter.