

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) HCP () IE () IC	Response Timely Filed? (X) Yes () No
Requestor's Name and Address Injury One Treatment Center 5445 La Sierra Drive Suite 204 Dallas TX 75231	MDR Tracking No.: M5-05-2352-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Rep Box # 19 American Home Assurance c/o Dan Kelley	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: SUMMARY OF DISPUTE AND FINDINGS

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
5-20-04	5-20-04	90801	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

PART III: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The Division has reviewed the enclosed IRO decision and determined that the requestor did **not** prevail on the disputed medical necessity issues.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 6-13-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Code 90901 billed for dates of service 1-7-05 and 1-31-05 were paid by the carrier with explanation code "45, charges exceed your contracted/legislated fee arrangement." The requestor is seeking additional reimbursement. Per Medicare, code 90901 states, "Biofeedback training by any modality". Per the AMA 2005 CPT Edition, code 90901 should be used once to identify all modalities of biofeedback training performed for that date of service, regardless of time increments and number of modalities performed. Therefore, no additional reimbursement is recommended.

PART IV: COMMISSION DECISION

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

8-2-05

Authorized Signature

Typed Name

Date

PART V: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: _____ Date: _____

PART VI: YOUR RIGHT TO REQUEST A HEARING

YOUR RIGHT TO REQUEST A HEARING

If you are unhappy with all or part of this decision, you have the right to appeal the decision. Those who wish to appeal decisions that were issued during the month of August 2005 should be aware of changes to the appeals process, which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas 78744 or faxed to 512-804-4011. A copy of this Decision should be attached to the request.

Beginning September 1, 2005, appeals of medical dispute resolution orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005]. An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

Si prefiera hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:
IRO CASE NUMBER: M5-05-2352-01
NAME OF REQUESTOR: Injury One Treatment Center
NAME OF PROVIDER: Phil Bohart, L.P.C.
REVIEWED BY: Board Certified in Psychiatry
Board Certified in Neurology in Psychiatry
Board Certified in Pain Medicine
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 07/25/05

Dear Injury One Treatment Center:

Professional Associates has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO) (#IRO5288). Texas Insurance Code Article 21.58C, effective September 1, 1997, allows a patient, in the event of a life-threatening condition or after having completed the utilization review agent's internal process, to appeal an adverse determination by requesting an independent review by an IRO.

In accordance with the requirement for Texas Workers' Compensation Commission (TWCC) to randomly assign cases to IROs, TWCC has assigned your case to Professional Associates for an independent review. The reviewing physician selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the reviewing physician reviewed relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal. determination, and any documentation and written information submitted in support of the appeal.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by a physician reviewer who is Board Certified in the area of Psychiatry, Board

Certified in Neurology in Psychiatry, and Board Certified in Pain Medicine and is currently listed on the TWCC Approved Doctor List.

I am the Secretary and General Counsel of Professional Associates and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for determination prior to referral to the Independent Review Organization.

REVIEWER REPORT

Information Provided for Review:

The Employer's First Report of Injury or Illness dated ____.

X-rays of the lumbar spine dated 10/07/03 and interpreted by Steve W. Hammond, M.D.

An evaluation with an unknown physician (the signature was illegible) on 10/10/03 at Parkview Medical Clinic.

An evaluation with Roy Linderman, D.C. dated 10/27/03 from Waco Ortho Rehab Associates.

A letter from Dr. Linderman dated 11/05/03.

An MRI of the lumbar spine obtained on 11/07/03 and interpreted by Henry Boehm, III, M.D.

Treatment with Dr. Linderman on 11/12/03, 11/13/03, 12/17/03, 12/19/03, 01/12/04, 01/14/04, 01/19/04, 02/16/04, and 02/20/04.

A Functional Capacity Evaluation (FCE) performed on 11/18/03 and interpreted by Dr. Linderman.

An EMG/NCV study of the right lower extremity obtained on 01/13/04 and interpreted by Joel Freitag, M.D.

An initial FCE obtained on 01/30/04 and interpreted by Brent Dunbar, P.T.

Work hardening note with Mr. Dunbar on 03/01/04, 03/10/04, 03/24/04, and 03/29/04.

A follow-up evaluation by Dr. Linderman on 03/31/04.

An MRI of the lumbar spine dated 04/14/04 from Jose Watson, M.D.

Continued treatment with Dr. Linderman dated 04/14/04.

Continued work hardening dated 04/26/04, 05/03/04, 05/10/04, and 05/14/04 with Mr. Dunbar, Victoria Curione, M.S., L.P.C., and Tatia Miller, M.A.

An interim FCE dated 05/03/04 with Mr. Dunbar.

A final FCE and discharge on 05/14/04 from Mr. Dunbar.

An initial behavioral medicine consultation dated 05/20/04 with Ms. Miller.

Continued treatment with Dr. Linderman on 05/25/04, 06/07/04, 06/08/04, 06/25/04, and 08/20/04.

An initial evaluation consultation dated 08/31/04 from Les Benson, M.D.

A To Whom It May Concern letter from Dr. Linderman dated 09/03/04.

A follow-up evaluation with Dr. Benson dated 09/22/04.

An EMG/NCV study of the right lower extremity performed on 09/23/04 and interpreted by Roger Harman, M.D.

A follow-up office note with Dr. Linderman dated 09/29/04.

Behavioral medicine testing and biofeedback PTA results dated 10/04/04 from Ms. Miller and Tracey Duran, M.S., L.P.C.

A TWCC-73 form dated 10/06/04 and signed by Dr. Linderman.

Another follow-up visit with Dr. Benson dated 10/20/04.

A Physical Performance Evaluation (PPE) dated 10/21/04 with Bill Crawford, L.P.C.

Additional follow-up visits with Dr. Linderman dated 10/29/04, 12/15/04, 12/29/04, and 01/14/05.

Individual psychotherapy and biofeedback notes dated 01/07/05, 01/31/05, 02/25/05, 03/05/05, 03/21/05, and 03/28/05 with Ms. Miller and David Fitzpatrick, L.S.W.

A follow-up visit with Dr. Benson dated 01/11/05.

Another follow-up with Dr. Linderman dated 03/16/05.

A TWCC-73 form signed by David Schikner, M.D., dated 06/03/05.

Clinical History Summarized:

The Employer's First Report of Injury or Illness stated the claimant stepped off a ladder and had sharp pain in his right hip and leg on _____. X-rays of the lumbar spine dated 10/07/03 revealed lateral spurring at L3-L4 with small anterior spurs at L4-L5. On 10/10/03, the unknown physician from Parkview Medical Center provided an illegible handwritten note. On 10/27/03, Dr. Linderman evaluated the claimant. It was stated he was coming down a stepladder holding 15-16 pounds of laundry detergent in each arm. He was not holding onto anything as he continued down the ladder backwards. When he reached the floor, he stepped down with his left foot first and when he placed his right foot on the ground, he felt immediate sharp pain. The diagnoses were a lumbar sprain/strain, grade II, lumbar facet syndrome, right sciatica, and myofascial pain syndrome. The claimant was taken off work at that time and a trial of home therapy was recommended. On 11/05/03, Dr. Linderman recommended an MRI of the lumbar spine. An MRI of the lumbar spine dated 11/07/03 revealed diffuse disc desiccation and mild broad based disc protrusion at L5-S1 without obvious neural encroachment. The claimant attended treatment with Dr. Linderman from 11/12/03 through 02/20/04. He received intersegmental traction, therapeutic exercises, electrical stimulation, and massage. On 11/18/03, the claimant had completed seven sessions of active and passive physical medicine treatment and did not feel his pain was as intense as it used to nor was it as frequent. An FCE was performed that day; however, the specific physical demand level the claimant was functioning in was not specified. Dr. Linderman recommended a continued home program and continued chiropractic management three times a week for six weeks. On 11/21/03, Dr. Linderman recommended an EMG/NCV study. The EMG/NCV study of the right lower extremity dated 01/13/04 revealed

no evidence of radiculopathy or compression neuropathy. There was evidence for subtle peripheral neuropathy; however, it was very mild. An initial FCE on 01/30/04 indicated the claimant scored a 48 on the Oswestry Disability Questionnaire. He also had problems with sleeping, fatigue, and low energy. It was felt the claimant was unable to return to work at that time and was felt to be an appropriate candidate for a work hardening program. The claimant attended work hardening from 03/01/04 through 03/29/04, which included exercises with Mr. Dunbar and individual psychotherapy with Ms. Miller. Dr. Linderman addressed a letter on 03/31/04 indicating the claimant was unable to work at that time, but was expected to return to work within six weeks. An MRI of the lumbar spine on 04/14/04 revealed a diffuse annular bulge with mild disc desiccation at L5-S1 that was not significantly changed since the previous study. There was no significant narrowing of the central canal or neural foramina. The claimant continued in work hardening with Ms. Curione, Mr. Dunbar, and Ms. Miller from 04/26/04 through 05/14/04. The claimant received exercises, as well as psychotherapy. The interim FCE dated 05/03/04 revealed the claimant was functioning in the medium physical demand level. His psychological screening scores had improved. However, the claimant was felt to be unable to return to work and was appropriate candidate for the work hardening program. The final FCE and discharge note dated 05/14/04 from Mr. Dunbar noted the claimant had shown substantial improvement in his limitations from the work hardening program. It was felt he would benefit from continued therapy. Ms. Miller performed an initial behavioral medicine consultation on 05/20/04 and provisionally diagnosed the claimant with an adjustment disorder with mixed anxiety and depressed mood and moderate/severe financial, social, physical, and occupational issues. Formalized psychological testing was recommended, which was performed and revealed moderate anxiety and severe depressive symptoms. The claimant continued to treat with Dr. Linderman on 05/25/04 through 08/20/04. He received diathermy, manual manipulation, myofascial release, and mechanical traction. Per a TWCC-73 form signed by Dr. Linderman on 06/08/04, the claimant returned to work with restrictions through 07/08/04 of no lifting or carrying objects over 20 pounds for four hours a day. Dr. Benson initially evaluated the claimant on 08/31/04 and prescribed the claimant Soma, Darvocet N-100, and recommended continued evaluation. On 09/03/04, Dr. Linderman took the claimant off work through 09/02/04 and stated the claimant could return to part time restrictions on 09/03/04. On 09/22/04, Dr. Benson refilled the claimant's Soma and Darvocet N-100 and also prescribed Ambien. An EMG/NCV study of the right lower extremity on 09/23/04 revealed right peroneal motor nerve axonal injury and demyelination. The claimant underwent behavior medicine testing and biofeedback PPA results on 10/04/04 with Ms. Miller and Ms. Duran. Ms. Miller and Ms. Duran recommended immediate authorization for ten days of a pain management program. On 10/06/04, the claimant was returned to light duty work by Dr. Linderman through 12/05/04. On 10/20/04, Dr. Benson refilled the claimant's Soma, Darvocet N-100, and Ambien. A PPE was performed on 10/21/04; however, the results were not available for review. The claimant continued to treat with Dr. Linderman on from 10/29/04 through 01/14/05. He received diathermy, myofascial release, and

electrical stimulation. The claimant attended individual psychotherapy and biofeedback from 01/07/05 through 03/25/05 with Ms. Miller and Mr. Fitzpatrick. Dr. Benson reevaluated the claimant on 01/11/05 and refilled Soma, Darvocet N-100, and Ambien. The claimant was instructed to increase his activities and work six hours a day and increase his workload to 50%. On 03/16/05, Dr. Linderman issued the claimant a TWCC-73 form with an increase in restrictions due to an aggravation in his pain. Per a TWCC-73 form signed by Dr. Schikner, the claimant was returned to work with restrictions of no carrying or lifting objects more than 15 pounds more than six hours a day through 07/03/05

Disputed Services:

Psychiatric diagnostic interview

Decision:

I agree with the carrier's denial of the psychiatric diagnostic interview

Rationale/Basis for Decision:

The claimant participated in two months of work hardening program where he would have received extensive physical therapy, as well as psychological counseling. It would have been reasonable for the patient to be returned to work at that point in time. The patient had an FCE that showed he could work at the medium physical demand level. The diagnostic interview was for an evaluation for a pain program. Evidenced based guidelines do not support more than approximately 20 days of interdisciplinary treatment. It is unclear how the claimant could have participated in nearly two months of work hardening if he had disabling pain.

ACOEM Guidelines, 2003 chapter 5 and 6 AAPM&R Sanders, et al., 1999, Clinical practice guidelines for chronic non-malignant pain syndrome patients, paraphrasing: Effective outcomes can be accomplished in less than 20 days, rarely more than twenty days are needed. II: Evidence-based approach. J. Back & Musc. Rehab, 13, 47-58; CARF (2003), Interdisciplinary Pain Management Programs, Med. Rehab. Standards, Tucson, AZ; American Pain Society (2000), APS Bulletin, 10(2), 13-14; Coll. Phys. & Surgeons. of Ontario (2000), Evidence based recommendations for medical management of chronic nonmalignant pain); Am. Acad. Pain Mgmt. (2003), Clinical Standards; Rome, J., et al. (2004). Chronic non-cancer pain rehabilitation with opioid withdrawal: comparison of treatment outcomes based on opioid use status at admission. Mayo Clinic Proceedings, 79(6), 759-768; Guidelines for psychiatric and psychological evaluation of injured or chronically disables workers. National Guideline Clearinghouse. www.guideline.gov, Chapter 18 Medical Management of Acute and Chronic Low Back Pain. An Evidence Based Approach. Bogduk and McGuirk Elsevier 2002].

This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician consulting for Professional Associates is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this decision and has a right to request a hearing.

A request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk **within twenty (20) calendar days** of your receipt of this decision (28 Texas Administrative Code 148.3).

This decision is deemed received by you **five (5) calendar days** after it was mailed and the first working day after the date this decision was placed in the carrier representative's box (28 Texas Administrative Code 102.5 (d)). A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P. O. Box 17787
Austin, TX 78744

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

I hereby verify that a copy of this Independent Review Organization's decision was sent to TWCC via facsimile or U.S. Postal Service on 07/25/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel