PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:
IRO CASE NUMBER: M5-05-2750-01
NAME OF REQUESTOR:
NAME OF PROVIDER:
REVIEWED BY: Board Certified in Chiropractics
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 09/09/05 (REVISED 11/11/05) (REVISED 11/22/05)

Dear Summit Rehab Centers:

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 Division of Workers' Compensation (DWC) to randomly assign cases to IROs, DWC 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.

This case was reviewed by a physician reviewer who is Board Certified in the area of Chiropractics and is currently listed on the DWC 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 the provider, the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or

any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the Independent Review Organization.

REVIEWER REPORT

Information Provided for Review:

A peer review dated 06/13/04 from Brian Buck, M.D.
Treatment with Luz D. Gonzalez, D.C. on 07/09/04, 07/28/04, 08/04/04, 08/13/04, 08/25/04, 08/26/04, 08/30/04, 08/31/04, 09/01/04, 09/08/04, 09/09/04, 09/10/04, 09/15/04, 09/16/04, 09/27/04, 09/28/04, 09/29/04, 10/05/04, 10/06/04, 10/11/04, 10/12/04, 10/18/04, 10/26/04, 11/05/04, 11/15/04, 11/22/04, 11/26/04, 11/30/04, 12/01/04, 12/02/04, 12/06/04, 12/07/04, 12/08/04, 12/09/04, 12/10/04, 12/13/04, 12/28/04, 01/07/05, 01/14/05, 01/19/05, 01/21/05, 01/31/05, 02/18/05, 02/22/05, and 03/14/05
A letter addressed to Dr. Gonzalez dated 07/16/04 from Walter D. Gracia, M.D.
An impairment rating dated 08/18/04 from Louise Lamarre, M.D.
A TWCC-69 from dated 08/18/04 from Dr. Lamarre
A letter dated 09/01/04 from Dr. Gonzalez
A physical examination/neurological evaluation of a Functional Capacity Evaluation (FCE) dated 10/12/04 from Dr. Gonzalez
Another FCE dated 12/13/04 from Dr. Gonzalez
An impairment rating review dated 12/22/04 from Jack Mikeworth, D.C.
A TWCC-69 form dated 12/22/04 and signed by Dr. Mikeworth
Another impairment rating dated 01/10/05 from Dr. Lamarre
A TWCC-69 form dated 01/10/05 from Dr. Lamarre
Another impairment rating evaluated 03/07/05 from Dr. Mikeworth
A TWCC-69 form dated 03/11/05 from Dr. Mikeworth
A request for reconsideration physician statement for the patient dated 05/19/05 and signed by Juan Fernandez, the collections officer
An MDR physician's statement for the patient dated 06/16/05 and signed by Mr. Fernandez.
A letter "To Whom It May Concern" dated 06/16/05 to the Texas Workers' Compensation Commission (TWCC) and signed by Mr. Fernandez
A summary of the physician statement dated 07/06/05 from S. Rhett Robinson at Flahive, Ogden, and Latson
The treating doctor's physician statement by R. Todd Petersen, D.C.

Clinical History Summarized:

The patient was evaluated by Dr. Gonzalez on 07/09/04 and diagnosed with a crushing injury to the finger and an open fracture of the distal phalanx or phalange of the hand. The patient attended therapy with Dr. Gonzalez from 07/09/04 through 03/14/05 and received paraffin bath, therapeutic exercises, and stretching exercises. In a letter dated 07/16/04 from Dr. Gracia, it was noted the patient's right index finger distal phalanx fracture had not healed and should be splinted. It was also noted that he might have carpal tunnel and cubital tunnel syndrome and needed a nerve study to evaluate those problems. On 09/01/04, Dr. Gonzalez addressed a letter noting the patient had just started two weeks of therapy for the hand, as his fracture had not healed. He was depressed and had significant concerns about his future employability. An initial low level of counseling was recommended. On 10/12/04, work hardening was recommended based on an FCE. On 12/22/04, Dr. Mikeworth performed an impairment rating, but did not feel the patient had reached Maximum Medical Improvement (MMI) at that time. Dr. Mikeworth performed another impairment rating on 03/11/05 and placed the patient at MMI and assigned him 7% whole person impairment rating. On 05/19/05, Mr. Fernandez from Summit Rehab Center addressed a letter of request for reconsideration. Mr. Fernandez also addressed a physician's statement for the patient dated 06/15/05. On 07/0605, Flahive, Odgen, and Latson provided a summary of the carrier's position, as the underlying charges and the dispute were for body parts and/or conditions not related to the compensable injury. Dr. Petersen provided a treating doctor's physician's statement for the IRO regarding the medical necessity denial on 08/15/05. It was noted the patient's care was performed within standards set forth by *Mercy Guidelines* and underwent appropriate care during this stage of care. He noted the patient did not sustain a simple injury, but had extensive involvement, including surgery, as set forth by the preauthorization of the surgery.

Disputed Services:

Prolonged physician service in the office or other outpatient setting, physician review and interpretation of computer based motion analysis, office visits, paraffin bath, therapeutic exercises, muscle test, range of motion measurements, manual therapy techniques, neuromuscular reeducation, and an FCE from 07/09/04 through 03/14/05

Decision:

I agree with the requestor in part. The prolonged physician service in the office or other outpatient setting, physician review and interpretation of computer based motion analysis, office visits, paraffin bath, therapeutic exercises, muscle test, range of motion measurements, an FCE, manual therapy techniques, and neuromuscular reeducation from 07/09/04 through 12/31/04 were reasonable and necessary. However, the documentation did not support office visits at a

frequency greater than one time per month, beginning in January of 2005 through 03/14/05. Due to the nature of the claimant's condition, each visit was performed in a monitoring capacity and not providing actual treatment. At a frequency of one time per week or treatment greater than one time per month would not be a reasonable or necessary.

Rationale/Basis for Decision:

The treatment provided from 07/09/04 through 12/31/04 would be considered reasonable and necessary as related to the original injury. The question should be as to whether the treatment satisfied the qualifications of Section 408.021 of the Texas Labor Code, which only substantiates the need for care, which (1) cures or relieves the effects naturally resulting from the compensable injury, (2) promotes recovery, or (3) enhances the ability of the employee to return to or retain employment. Based upon review of the provided documentation and nature of the claimant's injury, the claimant's condition appeared to progress at a reasonable pace under the treatment provided by Dr. Gonzalez from 07/09/04 through 12/31/04. The documentation did not support office visits at a frequency greater than one time per month, beginning in January of 2005. Due to the nature of the claimant's condition, each visit was performed in a monitoring capacity and not providing actual treatment. At a frequency of one time per week or treatment greater than one time per month would not be a reasonable or necessary in this situation. As this treatment provided on this monitoring visit would not be directed towards curing or relieving the claimant's condition, promoting recovery, or enhancing the ability to return to employment, as no treatment was actually provided. All of the treatment from 07/09/04 through 12/31/04 would be considered medically reasonable and necessary as it does satisfy Section 408.021 of the Texas Labor Code.

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

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

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If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). 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.

If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision. A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk
TDI-Division of Workers' Compensation
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 DWC via facsimile or U.S. Postal Service on 11/22/05 from the office of Professional Associates.

Sincerely,

_____
Lisa Christian
Secretary/General Counsel