



Texas Department of Insurance, Division of Workers' Compensation
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: () Health Care Provider (X) Injured Employee () Insurance Carrier

Requestor's Name and Address:

MDR Tracking No.: M5-06-0688-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:
Continental Casualty Company
Box 47

Date of Injury:

Employer's Name:

Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION: DWC-60 dispute package

POSITION SUMMARY: Receipts for request to CNA for payment of fees (out of pocket)

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

DOCUMENTATION: Response to DWC-60

POSITION SUMMARY: "In addition, the Carrier disputes these amounts as medically necessary and is enclosing some of the EOBs sent to the pharmaceutical providers as evidence of such. The Carrier is also attaching the peer review of Dr. Sklar".

PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
03-10-04 to 01-26-05	Office visits, Methadose and Hydro/APAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$0.00

PART V: 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 Division Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), Medical Dispute Resolution 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.

Dates of service 01-29-04 and 02-20-04 per Rule 133.308(e)(1) were not timely filed and are ineligible for review.

Per Rule 133.307(f)(2) the requestor did not submit copies of out of pocket expenses for dates of service 04-07-04, 04-14-05 and 04-20-05, therefore, these dates of service are not eligible for review.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 133.307(f)(2) and 133.308(e)(1)

PART VII: DIVISION DECISION

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. 413.031, the Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute.

Findings and Decision by:

01-31-06

Authorized Signature

Date of Findings and Decision

PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW

Appeals of medical dispute resolution decisions and 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. The Division is not considered a party to the appeal.

Si prefiere 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: M5-06-0688-01
NAME OF REQUESTOR: _____
NAME OF PROVIDER: Stephen Graham, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO.: IRO 5288
DATE OF REPORT: 01/11/06 (REVISED 01/17/06)

Dear Ms. ____:

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 TDI-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 Orthopedic Surgery 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:

Evaluations with John Fielor, M.D. dated 02/27/96 and 09/04/97
An evaluation with Scott L. Blumenthal, M.D. dated 03/06/96
Evaluations with Mark A. Doyne, M.D. dated 03/11/96, 04/01/96, 04/11/96, 05/30/96, 06/14/96, 07/15/96, and 07/26/96
A physical therapy visit with an unknown therapist dated 03/15/96
An MRI of the thoracic spine interpreted by John D. Fisk, M.D. dated 04/08/96
Evaluations with John Triano, M.A., D.C. dated 05/01/96 and 05/21/96
An evaluation with Joseph Nagy, P.A.-C. dated 05/08/96

A bone scan interpreted by Dr. Doyne on 06/12/96
Evaluations with Steven L. Remer, M.D. dated 06/19/96, 07/17/96, 08/14/96, 09/19/96, 10/18/96, 12/02/96, and 12/09/96
An operative report with Johnny L. White, Jr., M.D. dated 07/08/96
Operative reports with Dr. Remer dated 07/30/96, 09/17/96, 10/08/96, and 11/15/96
A letter from Barbara A. Brown, R.N, Medical Review Specialist at Intracorp, dated 12/27/96
An employee's request to change treating physicians form on 01/10/97
Chiropractic evaluations and treatments with Randall V. Hicken, D.C. dated 01/23/97, 01/24/97, 02/24/97, 03/04/97, 03/07/97, 03/14/97, 03/18/97, and 03/19/97
Evaluations with Pedro Nosnik, M.D. dated 02/01/97, 03/11/97, 04/01/97, and 02/16/99
A Required Medical Evaluation (RME) with Benzel C. MacMaster, M.D. dated 03/05/97
A letter written by Dr. Nosnik dated 03/19/97
A letter written by Kathryn Y. Cowart, Medical Review Specialist at Intracorp, dated 04/25/97
An impairment rating evaluation with Dr. Hicken dated 04/15/97
Designated Doctor Evaluations with Judy Kelly, D.C. dated 05/27/97 and 12/17/97
A letter of medical necessity for a pain management program from Dr. Hicken on 09/25/97
A pain management evaluation with Matt Sidan, Jr., M.D. dated 10/30/97
A procedure note from Dr. Sidan dated 11/18/97
Evaluations with Gary W. Henderson, D.C. dated 11/26/97 and 11/11/98
Letters of medical necessity from Matt C. Sloan, M.D. dated 12/05/97, 03/02/98, 03/06/98, and 05/20/98

Evaluations with Dr. Sloan dated 12/05/97, 12/31/97, 01/30/98, 02/04/98, 02/17/98, 02/27/98, 03/05/98, 03/26/98, 04/15/98, 05/12/98, 05/28/98, 06/15/98, 07/10/98, 09/04/98, 11/04/98, 11/30/98, 12/23/98, 01/19/99, 03/15/99, 04/12/99, 05/12/99, 06/08/99, 07/01/99, 07/30/99, 08/26/99, 09/22/99, 10/14/99, 11/03/99, 12/09/99, 01/05/00, 02/02/00, 02/28/00, 03/16/00, 04/17/00, 05/15/00, 05/25/00, 07/03/00, 07/27/00, 09/21/00, 10/27/00, 12/27/00, 01/23/01, 02/13/01, 03/09/01, 04/04/01, and 05/07/01

A letter of medical necessity for an interferential stimulator unit from Dr. Henderson dated 03/03/98

Procedure notes from Dr. Sloan dated 04/15/98, 05/28/98, and 05/25/00

A letter from William Randell Johnson at Johnson & Peavy dated 06/08/98

An impairment rating evaluation with Kellie J. Timberlake-Lancaster, D.C. dated 06/30/98

An MRI of the lumbar spine interpreted by Kendall M. Jones, M.D. dated 04/16/99

An evaluation with William T. Tobleman, M.D. dated 09/14/00

A discharge note from Mark K. Spiegel, M.D. dated 09/18/00

A letter from Dr. Sloan to the patient dated 05/15/01

Operative reports from Stephen A. Graham, M.D. dated 06/11/01, 11/19/01, 12/17/01, 01/15/02, 05/07/02, 09/16/02, 09/30/02, and 10/21/02,

Evaluations with Dr. Graham dated 06/27/01, 07/25/01, 08/22/01, 10/24/01, 11/21/01, 12/19/01, 02/20/02, 04/03/02, 05/01/02, 05/29/02, 08/21/02, 09/04/02, 09/25/02, 10/30/02, 11/20/02, 12/18/02, 01/14/03, 01/15/03, 02/12/03, 04/02/03, 05/27/03, 06/25/03, 11/05/03, 11/26/03, 01/14/04, 04/07/04, 04/28/04, 07/01/04, 07/21/04, 08/11/04, 09/15/04, 11/10/04, 01/26/05, 04/20/05, and 08/10/05

An evaluation with Neil J. Atlin, D.O. dated 03/10/03

An MRI of the lumbar spine interpreted by Gary W. Kerber, M.D. dated 06/23/03

A psychological evaluation with Elizabeth Lombardo, Ph.D. and Jennifer Hankins, Psy.D. dated 12/02/03

A behavioral evaluation with Ms. Lombardo and Jonnalee Barta, Ph.D. dated 01/07/04

Patient and biopsychological counseling notes with Ms. Lombardo dated 02/06/04, 02/24/04, 04/08/04, 04/16/04, 04/22/04, 05/11/04, 05/19/04, 05/27/04, 06/02/04, and 06/10/04

An RME with Jack Kern, M.D. dated 03/23/04

An evaluation with Ms. Lombardo dated 05/29/04

Evaluations with Edward T. Shin, M.D. dated 06/23/04 and 03/22/05

Patient psychotherapy with Lieu Vuong, Ph.D. dated 06/25/04

Health and behavioral intervention with Dr. Vuong and Dr. Barta dated 08/06/04, 08/30/04, 09/23/04, and 10/07/04

Dr. Blumenthal recommended physical therapy on 03/06/96. An MRI of the thoracic spine interpreted by Dr. Fisk on 04/08/96 revealed degenerative changes at T10-T11 and T11-T12. On 05/30/96, Dr. Doyne performed a bone scan, which revealed the degenerative changes in the thoracic spine. On 06/14/96, Dr. Doyne referred the patient for a pain management evaluation. Dr. White performed

thoracic facet joint and trigger point injections on 07/08/96. On 07/30/96, Dr. Remer performed a right SI joint and multiple Botox injections. Dr. Remer performed right lumbar facet injections on 09/17/96, right cervical facet injections on 10/08/96, and right lumbar facet median branch rhizotomies on 11/15/96. Chiropractic treatment was performed with Dr. Hicken from 01/23/97 through 03/19/97 for a total of eight sessions. Dr. MacMaster felt the patient was not at Maximum Medical Improvement (MMI) on 03/05/97. On 04/01/97, Dr. Nosnik recommended cervical epidural steroid injections (ESIs). On 04/15/97, Dr. Hicken felt the patient was at MMI with a 7% whole person impairment rating. On 05/27/97, Dr. Kelly placed the patient at MMI at that time with a 16% whole person impairment rating. On 09/25/97, Dr. Hicken wrote a letter of medical necessity for a pain management program. Dr. Sloan performed a right quadratus lumborum and piriformis trigger point injection on 11/18/97. On 12/05/97, Dr. Sloan wrote a letter of medical necessity for a cervical ESI. On 12/17/97, Dr. Kelly placed the patient at MMI as of 06/03/97 with a 17% whole person impairment rating. On 03/03/98, Dr. Henderson wrote a prescription for an interferential stimulator unit. Dr. Sloan performed a right lumbar ESI with lysis of adhesions on 04/15/98. Lumbar facet injections were performed by Dr. Sloan on 05/28/98. On 06/08/98, Mr. Johnson noted the patient had a Benefits Review Conference (BRC) and a new Designated Doctor had been chosen due to errors in the last report and contact by the patient. On 06/03/98, the patient was placed at MMI with a 9% whole person impairment rating by Dr. Timberlake-Lancaster. On 02/16/99, Dr. Nosnik recommended a lumbar myelogram and possible discogram. On 03/15/99, Dr. Sloan recommended a lumbosacral spine MRI. The MRI performed on 04/16/99 and interpreted by Dr. Jones revealed a disc bulge/protrusion at L5-S1. On 10/14/99, Dr. Sloan recommended another trial of lumbar facet injections. Dr. Sloan performed lumbar facet rhizotomies on 05/25/00. On 05/15/01, Dr. Sloan noted the patient violated her narcotic contract and he would no longer see her. On 06/27/01, Dr. Graham recommended lumbar selective nerve root block, Methadone, Vioxx, and Neurontin. The selective nerve root blocks were performed by Dr. Graham on 11/19/01, 12/17/01, and 01/15/02. Further nerve root blocks were performed by Dr. Graham on 05/07/02, 09/16/02, 09/30/02, and 10/21/02. On 12/18/02 and 01/14/03, Dr. Graham recommended a spinal cord stimulator trial. A repeat lumbar MRI interpreted by Dr. Kerber on 06/23/03 revealed mild disc bulging at L4-L5 and L5-S1, mild foraminal narrowing and bilateral facet arthropathy at L5-S1, and bilateral facet hypertrophy at L4-L5. Ms. Lombardo recommended patient psychotherapy sessions on 01/07/04. Patient therapy was performed with Ms. Lombardo from 02/06/04 through 06/10/04 for a total of 10 sessions. Patient therapy continued with Dr. Vuong from 06/25/04 through 10/07/04 for a total of five sessions. On 01/26/05, Dr. Graham continued to recommend a spinal cord stimulator trial.

Disputed Services:

Office visits, Methadose, and Hydrocodone/APAP from 03/10/04 through 01/26/05

Decision:

I disagree with the requestor. The office visits, Methadose, and Hydrocodone/APAP from 03/10/04 through 01/26/05 were not reasonable or necessary as related to the original injury.

Rationale/Basis for Decision:

There was no doubt that this patient has degenerative changes in her lumbar spine. Those predated the injury. They were neither aggravated by, nor caused by this injury. Eugene Caragy, M.D., from Stanford University, followed a cohort of patients with preexisting degenerative changes for several years. As in compensation and legal issues, no one develops significant pain from their lumbar spine unless they also had severe injuries, such as fractures. This would indicate that psychological factors in those compensation cases predominate. In reviewing this extremely long file, there was no physiological mechanism by which the injury she was described as having almost a decade ago could still be creating pain. Therefore, the over treatment with Methadose and narcotic medications in itself was continuing her pain. There was no physiologic, medical, or legal justification to continue the office visits, Methadose and Hydrocodone from 03/10/04 through 01/26/05 for the treatment of the compensable injury.

The rationale for the opinions stated in this report are based on clinical experience and standards of care in the area as well as broadly accepted literature which includes numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

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 Division 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.

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 01/17/06 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel