

October 30, 2002

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TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M2 03 0159 01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Doctor of Chiropractic who is board certified in Chiropractic Orthopedics. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___, a 42 year old female, injured her lower back while working as an elderly patient sitter for ___. She was on her first day at the job, looking after an elderly gentleman in a retirement home. She dressed him at the end of her shift and was transferring him to a wheelchair when she was surprised that he was not able to support himself and as a result took his full weight rather than drop him into the chair. In the process she wrenched her lower back. She then presented to ___, a chiropractor, complaining of low back pain with bilateral radiation into the legs. ___ then managed her care, which included spinal manipulation with adjunctive physiotherapeutic modalities, progressing to a more active environment, injections, medications and four weeks of work hardening. The treating doctor notes that physically the patient had improved and the notes indicate that the pain centralized nicely to her low back with treatment. Apparently the patient began to demonstrate signs of a depressive disorder with additional signs of added stress, anxiety and frustration, and the treating doctor now recommends that this requires progression into a chronic pain program.

Diagnostically, she had a MRI of the lumbar spine performed on 2/12/02. This reveals partial desiccation at L4/5 disc, associated with a 3.5 mm eccentric disc herniation on the left, with considerable indentation upon the dural sac. Neural foraminal stenosis is noted bilaterally, predominantly on the left side due to facet hypertrophy. Neural foraminal encroachment is seen bilaterally, predominantly on the left.

The patient has had recommendation for ESI's, however declined to pursue this option. She had a "chronic pain assessment" performed by ___ on 8/26/02. This appeared to be an interview based evaluation, without any formal screening instruments or assessment measures performed. The axis 1 impression was adjustment disorder with mixed anxiety and depressed mood, axis IV was severe chronic pain syndrome. She believed that ___ was a highly motivated individual who expresses a desire to learn techniques that may help her manage her pain and stress".

She was prescribed Zanaflex and Ultram by a pain management specialist, ___ on 4/15/02 and upon follow-up on 7/8/02 she continued to take these sparingly without any requiring refills on her prescription. He prescribed Wellbutrin for anxiety depressive disorder based on the clinical psychologist's recommendation. She was evaluated for designated doctor purposes on 9/12/02 by ___ who is a psychiatrist. ___ noted at this time that she had reduced muscle spasms and had to take less of her other medicines since being on Wellbutrin. She made note that the patient was taking "a few Ultram per month for pain" and "sometimes goes many days without Zanaflex", although sometimes takes one or two per day for one week when she gets back spasm flare-ups. She also noted that the patient was on a home exercise program, during daily neck stretching exercises, had purchased a treadmill and lost 8 pounds. The designated doctor made no note of any abnormal pain behavior during the patient's exam. She assessed the patient as being at MMI with 5% whole person impairment.

REQUESTED SERVICE

___ is asked to address the prospective medical necessity of a Chronic Pain Management program for 30 sessions.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

I can find no evidence supporting the requirement of continuing of the chronic pain management program for this patient in the supplied documentation. The record has very little in the way of functional assessment of this patient, particularly with respect to an appropriate functional capacity evaluation (FCE). This would provide for an effective multidimensional evaluation of the biologic, physiological, and social compromises of the patient's ability to carry out activities of daily living. *Chronic pain or chronic pain behavior should trigger assessment with regard to functional and ADL activities. It is defined as devastating and recalcitrant pain with major psychosocial consequences. It is*

self sustaining, self regenerating and self-reinforcing and is destructive in its own right as opposed to simply being a symptom of an underlying somatic injury. Chronic pain patients display marked pain perception and maladaptive pain behavior with deterioration of coping mechanisms and resultant functional capacity limitations. The patients frequently demonstrate medical, social and economic consequences such as despair, social alienation, job loss, isolation and suicidal thoughts. Treatment history is generally characterized by excessive use of medications, prolonged use of passive therapy modalities and unwise surgical interventions. There is usually inappropriate rationalization, attention seeking and financial gain appreciation⁽⁴⁾. These behaviors are absent in this patient, in fact she demonstrates the opposite behavioral tendencies.

A chronic pain program involves a multidisciplinary approach and is reserved typically for outliers of the normal patient population, i.e. poor responders to conventional treatment intervention, with significant psychosocial issues and extensive absence from work^(3,4).

The sustained injury appears to have been a relatively uncomplicated lumbar discopathy with radiculopathy/radiculitis, which *has* responded reasonably well to conservative physical intervention, within a reasonable time frame with some persistent pain residuals. Persistent pain can exist in the absence of chronic pain⁽⁴⁾. Although “reactive” depression has been identified in this patient, there has been no formal evaluative process performed to more accurately assess correlative psychological issues let alone their impact on the patients’ functional status. From the supplied documentation, any associated depression indeed appears to have been of minimal impact and the patient responded well to anti-depressive medication. According to the designated doctor’s (___) report, the anti-depressive medication had allowed for a reduction in other medication use, which (per ___) was already previously at a low level and certainly not within any abusive range. This fact alone tends to indicate that the patient is not a chronic pain candidate. Depression on its own in the absence of other qualifiers is insufficient to determine medical necessity for a chronic pain program.

All of the other indicators which would normally identify an appropriate candidate⁽³⁾, namely a functional capacity evaluation identifying significant psychosocial overlay and significant barriers to recovery, abnormal pain diagrams, functional reports of poor treatment participation, are absent. In fact, the record consistently reports good validity and participation in this patient. The absence of such indicators would suggest that the patient does not require any form of multi-disciplinary work hardening, much less further continuation beyond normal work hardening requirements into a chronic pain program.

Established clinical guidelines^(1,2) state that an appropriate strengthening/rehabilitation program should be instituted to improve mobility and strength deficits following a course of passive care. I am unaware of any treatment guidelines that suggest work hardening and then chronic pain management is a required treatment progression in the absence of clinical indicators for such progression.

As an officer of ____, I certify that there is no known conflict between the reviewer, ____ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

____ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

1/ Haldeman S., Chapman-Smith D, Peterson DM., eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen: Giathersburg, MD, 1993;

2/ Souza T: Differential Diagnosis for a Chiropractor: Protocols and Algorithms, 1997.

3/ CARF Manual for Accrediting Work Hardening Programs

4/ AMA Guides to the Evaluation of Physical Impairment, 4th Edition

YOUR RIGHT TO REQUEST A HEARING

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

In the case of prospective *spinal surgery* decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within 10 days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other *prospective (preauthorization) medical necessity* disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(t)(2).