



Specialty Independent Review Organization, Inc.

February 18, 2005

Hilda Baker  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M2-05-0685-01  
IRO #: 5284

Specialty IRO 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 Specialty IRO for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Specialty 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 Medical Doctor who is board certified in Anesthesia and Pain Management. The reviewer is on the TWCC ADL. The Specialty IRO 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 Specialty IRO 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

According to the medical records, the patient suffered a work related injury on \_\_\_ when she was pulling herself into a van and "the latch moved", which caused her to fall on her back. Since this time, she has had persistent low back pain and left lower extremity pain. There are no records prior to 10-29-03, which is the initial consultation with Dr. Pinchot. The only mention of treatment from \_\_\_ to 10-29-03 is a reference by Dr. Pinchot to physical therapy of various modalities with moderate response, as per the patient. The diagnoses of the initial consult are lumbar radiculitis, myofascial pain syndrome and lumbar spondylosis without myelopathy. There is no mention of psychological issues in the initial consultation. After this initial consultation, Dr. Pinchot has coordinated her medication management and interventional treatment. She has undergone the following procedures: **Transforaminal ESI** at left L4, L5 and S1 on 11-06-03 and 11-25-03: Patient reported a 40% improvement with a VAS of 5 after the 1<sup>st</sup> injection

and a VAS of 6 after the 2<sup>nd</sup>. Patient referred moderate improvement. **Selective nerve root block** at left L3, L4 and L5 on 12-23-03: Patient reported a VAS 10 after the procedure. **Caudal epidural steroid injection** on 01-15-04: Previous to this (on 01-14-04) she reported a VAS 5 and after she reported 50% improvement of her leg symptoms, but VAS is 10+ in her back. **Medial branch block** at L4, L5 and S1 with left sacroiliac joint injection on 02-12-04: Patient reported 70% improvement with “tolerable” pain level. **Radiofrequency lesioning** of left L3, L4, L5 and S1 medial branches on 03-16-04: Patient again reports 70% improvement but persists with a VAS of 7 from post procedure neuritis. **Post radiofrequency medial branch blocks** at left L3, L4, L5 and S1 on 04-01-04: Patient reported a 75% improvement with a VAS of 7.

While undergoing these procedures, there is no mention of psychosocial issues. The first mention of psychological symptoms occurs on 08-02-04 in which the diagnosis includes reactive depression and anxiety with only the patient’s subjective complaint of anxiety. Curiously, this first mention of anxiety is simultaneous with an emergency room visit with cardiac workup without significant results. Patient has a cardiac medical history controlled by her primary doctor, though apparently not significant. On this consult of 08-02-04, he recommended the addition of an antidepressant medication. According to records, the patient did not initiate an antidepressant until 12/04 (Zoloft) due to apparent issues with the insurance company approval. Her other medications have slowly increased from the initial use of Vicodin with Ultram to her current Oxycontin with Vicodin, Neurontin and Zoloft. There is little mention of the patient’s response to physical therapy or functional capacity evaluations to evaluate her physical progress. In the office visit of 01-14-04, Dr. Pinchot mentions that she has started rehabilitation with Dr. Davis and it helped the patient, but she continues with low back and left lower extremity pain. There was also reference on 02-11-04 of pending surgical intervention with Dr. Westmark, but there was no further mention of this. After the patient had completed her interventional pain procedures, the office visit notes refer VAS scores that oscillate from 6.5 to 8.

After August of 2004, she continued to refer intermittent depression but her pain was tolerable with her medications. Patient was recommended to undergo individual counseling and chronic pain program in late August. However, the patient had already undergone three individual sessions, at the time that Dr. Pinchot recommended this treatment and there is no mention of these sessions in his office note of 08-30-04. In October 2004, the patient continued to refer anxiety and increased heart rate with decreased efficacy of pain medication. In November 2004, she referred back improvement but referred knee pain. This is the first mention of a knee symptom, so this is probably not work related. She refers depression (or anxiety) and Dr. Pinchot again requests individual counseling. He states that her pain is tolerable with housework and outdoor activities so that she can “get out and do stuff”. In December 2004, the office visit states that the Zoloft is helping her anxiety and her baseline back pain (4/10) is controlled with her medications. Curiously, her VAS, which had been consistent at 8/10, dropped to 4/10 with the use of Zoloft. The last available office visit of 02-02-05 reports a VAS of 7.5 with persistent low back and lower extremity pain. She is moderately functional, but requires medication and her final assessment has shifted to lumbar facet syndrome, bilateral sacroiliitis, myofascial pain syndrome and reactive depression.

There are also individual counseling notes from Healthpartners for four sessions from 08-04-04 through 09-09-04. In these notes, the patient tested with severe levels of anxiety and depression and there are reports that her antidepressant medication was repeatedly denied. The patient was reported to adapt to new methods of pain and anxiety control; however, she continued to report a high VAS of pain. On 08-30-04, she reported significant personal stressors, unrelated to the injury. There was a request for further individual sessions to address negative aspects of her pain and stressors as well as her symptoms of anxiety and depression.

There is a second set of four individual session notes from Healthpartners dated 11-04-04 through 11-30-04. She initiated these sessions with a VAS score of 8 for pain and 6 for stress. The patient reported difficulty sleeping and she reported an attempt at distracting and relaxation techniques to no avail. She continued to refer her functional limitations for simple daily activities. However, Dr. Pinchot's office note of November 2004 refers that the patient has a good functional capacity and she is able to realize her normal activities. The patient reported increased pain after physical therapy sessions especially in the knees. She had increased stressors due to financial issues and she continued with difficulty sleeping. In her last session, her VAS for pain was 8 and she had lower back pain, but her knees had improved without the physical therapy. She again referred significant stressors and she wanted to obtain other methods of pain control.

## RECORDS REVIEWED

Records from the Carrier: Summary of denial rationales by Ron Nesbitt dated 02-03-05, Initial pre-authorization denial dated 12-09-04, Reconsideration pre-authorization denial dated 12-17-04, Reconsideration request from Healthpartners dated 12-13-04, Initial pre-auth request from Healthpartners dated 12-03-04, Individual session progress notes dated: 11-30-04, 11-16-04, 11-09-04, 11-03-04, Individual counseling notes dated: 09-09-04, 08-30-04, 08-26-04, 08-04-04  
Clinic note from Dr. Keith Pinchot: 12-01-04, 11-03-04, 10-04-04, 08-30-04, 08-02-04, 04-28-04, 03-24-04, 03-10-04, Procedure note from Dr. Pinchot dated 04-01-04 for left medial branch blocks at L3-S1, post radiofrequency lesioning and Procedure note from Dr. Pinchot dated 03-016-04 for radiofrequency lesioning of left L3-S1.

## Records from the Doctor / Facility

TWCC IRO Notification dated 01-27-05

Clinic notes from Dr. Pinchot dated: 11-17-03 through 02-02-05, Initial consultation of 10-29-03 by Dr. Pinchot, Procedure note from Dr. Pinchot dated 04-01-04 for post radiofrequency lesioning medial branch blocks at left L3-S1, Procedure note from Dr. Pinchot dated 03-16-04 for radiofrequency lesioning of left L3-S1, Procedure note of 02-12-04 from Dr. Pinchot for left medial branch blocks at L4-S1 and left SI joint injection, Procedure note of 01-15-04 from Dr. Pinchot for caudal ESI, Procedure note of 12-23-04 from Dr. Pinchot for left L3, L4, and L5 epidural selective nerve root block, Procedure note of 11-25-03 from Dr. Pinchot for left L4, L5 and S1 transforaminal epidural block, Procedure note of 11-06-03 from Dr. Pinchot for left L4 and L5 and S1 transforaminal epidural block.

### REQUESTED SERVICE

The requested service is a chronic pain management program 5 times a week for six weeks.

### DECISION

The reviewer agrees with the previous adverse determination.

### BASIS FOR THE DECISION

There are many factors to consider when regarding this type of chronic pain program. Among these factors, the most important would be patient benefit. There is no doubt as to the patient's work injury or the chronicity of her injury. There is however significant doubt that this type of chronic pain management program would benefit Ms. Henkel at this stage in her treatment. The treatment plan delineated by Healthpartners includes the following interventions: stress management and relaxation groups, individual therapy, nutrition education, medication management, vocational counseling and physical activity. The goals of this program are described as: improved cardiovascular endurance (treadmill and cycling), decrease in perceived VAS score, decrease in pain medication use, improved sleep quality, increased activity level and increased strengthening. From a theoretical point of view, these goals would certainly benefit the patient; however, from a clinical standpoint, the reviewer feels that her limited progress and responses to date indicate that she would have a poor outcome from this type of treatment. She has presented a negative response to physical therapy and individual sessions in the past. The patient has reported adequate control of pain with her current medications and Dr. Pinchot has not reported any problems with her current dose or any indication to wean at this point in treatment.

The patient has reported various inconsistencies in regards to pain level and symptoms, which do not correlate with her stage in treatment, level of medication or functional ability. Her initial request for this program stated that the patient had been suffering from anxiety and depression since her initial date of injury. Unfortunately, the available medical records do not document any psychological symptoms whatsoever until individual psychological sessions began in August of 2004. In her two blocks of individual sessions, the patient's progress has been minimal at best with no change in her pain symptoms or perceived pain level. The only noticeable progress made was with the initiation of the Zoloft. Her individual sessions demonstrated that isolated psychological pain strategies would not be effective in treating any psychological issues and the reviewer agrees with previous physician advisors to the extent that an appropriate course of monitored anti-depressant therapy would need to be exhausted before considering this type of treatment.

There is also no supporting letter justifying this treatment by the requesting physician. I do have documentation from the Healthsouth provider; however, the prescribing physician has not presented a direct rationale for medical necessity from a medical standpoint. The reconsideration request of 12-13-04 states that the individual sessions have been insufficient and that the patient has already initiated the antidepressant medication. In terms of timeline, however, the patient had

only had approximately two weeks of treatment with the Zoloft medication, which is insufficient time to determine the response to antidepressant medication. The reviewer does not feel that this request will promote employment or relieve any effects from the compensable injury, given her progress with other modalities and the types of intervention proposed.

The reviewer indicates the determination rendered is obtained from standards of care, the reviewer's clinical experience, reasonable medical probability and any pertinent clinical literature. The rationale for the discussion in this report is based on those elements noted above as well as the broadly accepted literature to include text books, professional journals, nationally and internationally recognized treatment guideline and peer consensus. Furthermore, this review has been conducted in accordance with the Texas Labor Code 408.021.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

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

Sincerely,

Wendy Perelli, CEO

### **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 17787, Austin, TX 78744. The fax number is 512-804-4011. 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(u)(2).

Sincerely,

Wendy Perelli, CEO

**I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 18th day of February, 2005**

**Signature of Specialty IRO Representative:**

**Name of Specialty IRO Representative: Wendy Perelli**