



Specialty Independent Review Organization, Inc.

March 9, 2005

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

Patient:
TWCC #:
MDR Tracking #: M2-05-0787-01
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 sustained a work injury on ___ while working as an equipment technician. He was lifting medical equipment into a van and experienced a "pop" in his lower back followed by immediate pain. Three days later, his pain exacerbated and he was evaluated at Concentra Medical Center. He was treated conservatively and placed on light duty. He was treated by Dr. Stephanie Jones, no reports available and had pain injections and medications. Patient had a post discogram CT scan on 11-07-01, which reported intact fusion at L4-L5 with left laminotomy and disc pathology at L5-S1 with annular tear and facet changes. The patient apparently has a previous history of fusion from 1987. The patient also has a history of 4 heart

attacks with angioplasty and three stents. He then underwent a Spinal Cord Stimulator trial with Dr. Murphy, which proved unsuccessful. He then proceeded with morphine pump trial since patient had a multiple nerve root injury with failed back syndrome.

The earliest office visit with Dr. Michael Murphy is of 03-28-02 and this indicates that patient had 60-70% relief with morphine pump trial and would proceed with the permanent implant. Patient had implant on 04-10-02 and one week later, he reported as 100% pain free. Initially, the pump had a drier rate of 0.5mg and 100% pain free. From May of 2002 to November of 2002, the patient reported some side effects with urinary retention and somnolence, which were treated accordingly. Otherwise, he continued with adequate pain relief and no reports of psychosocial symptoms. He did present with some localized muscle spasms around the pump site and a possible sympathetic component of pain around the pump site. His pump was increased during this period to 0.85 mg/day. In November of 2002, he initiated with Elavil and Topamax, due to the local reactions over the pump site.

There is a break in the records until November of 2003, when he presented severe left radicular pain and the pump was increased to 1.2mg. The patient underwent TFESIs at Bilateral L5 (12-05-03, 12-18-03) but continued with pain. Due to his lack of response, Dr. Murphy recommended a chronic pain management program and increased the pump to 1.5mg per day. In subsequent nurse notes for pump refills, the patient consistently reports a pain level of 8/10 with bilateral radicular symptoms and a pump rate of 1.6 mg per day until 09-14-04 when it increased to 1.9mg per day. The patient did undergo another TFESI at left L5 and Left S1 on 10-13-04 with no report of response. In November of 2004, Dr. Murphy requested a new CT scan and recommended a new lumbar discogram with possible disc decompression procedure. The patient was also started on Daypro 600mg BID. In a pump refill note of 11-30-04, the patient refers that the 4 sessions of physical therapy increased his pain in the back and left leg. There is still no documentation of new psychological symptoms. The last available note is the pump refill of 02-21-05 with the same characteristics.

According to medical records, the patient's current medications include: Morphine pump regulated at 1.9mg per day, Daypro 600mg BID, AAS 81 mg per day, Atenolol 25mg qd and Elavil 10mg (2 tab qHS). Apparently, 3 tab qHS were prescribed but the patient reported only taking two. The patient reported some relief of depressive symptoms with Amytriptiline but not enough.

The initial assessment of 02-06-04 psychological assessments, patient referred lumbar spine pain with radiation to left lower extremity with intensity of 8/10 and his pain has worsened over the last year. He reported multiple symptoms compatible with significant depression secondary to chronic pain. He reported difficulty sleeping and that his activity level are 5 hours per day. He was diagnosed with major depression, moderate with a chronic medical condition. He states that patient is currently on anti-depressant medication and morphine pump but continues with these psychological symptoms that contribute to loss of function. In a follow-up evaluation of 04-30-04 it reports moderate anxiety, hostility, symptoms dependency, and substance abuse, among others. He reported that the pump was not effective most of the time and that he had continues

pain at neck, shoulders and bilateral knees on 06-21-04. There are reports that patient has persistent clinical sources of pain that increase psychological factors. The summary of 10-29-04 reports that his anxiety levels and depressive level has decreased but his pain level remains the same.

According to a summary of his seven sessions of psychological counseling, the patient has only presented improvement in lumbar flexion (30 degrees) and right lateral bending maneuvers (4 degrees). He did not present improvement in the following areas: pain variable, lumbosacral tenderness, left lower extremity radiculopathy, SLR, hip extension or abduction, knee flexion, left ankle strength, single leg stand, squat mobility, and sit tolerance. He states that he has had "marked improvement in his activity tolerance." He refers that the patient would benefit from continuation of program to improve his left lateral bending maneuver and increase exercise tolerance. The report is provided by Steven Vinson, PT.

A. Records Reviewed: Records from the Doctor / Facility

- Letter of Request of MDR from Dr. Jackson, DC dated 02-07-05
- Request for Reconsideration letter of 11-19-04 by Dr. Jackson, DC
- Receipt of MDR Request dated 02-04-05 + IRO Assignment
- Referral prescription for La Escala Pain Mgmt Center
- HealthTrust Report of 10-29-04 by Caesar Garza, MA
- HealthTrust Behavioral Assessment of 04-30-04 by James Flowers, MA
- Reconsideration for CPMP dated 07-28-04 by Dirk Hunter, DC
- HealthTrust initial interview dated 02-06-04 by James Flowers, MA
- Request for pre-authorization of CPMP dated 07-05-04 by Caesar Garza, MA
- HealthTrust CPM Session of 11-01-04, 10-29-04, 10-25-04, 10-22-04, by Melissa Deleon, MA
- HealthTrust CPM Session of 10-28-04, 10-27-04, 10-26-04, 10-19-04, 10-20-04, 10-21-04 by Caesar Garza, MA
- HealthTrust Pain Mgmt Group note of 10-28-04, 10-19-04, 10-21-04, by Amrit Khalsa (Yoga)
- HealthTrust Individual Psychotherapy session of 07-01-04, 06-21-04, 06-14-04, 06-07-04, by Caesar Garza, MA
- OV note of Dr. Michael Murphy, MD / Patricia Arnold dated: 09-09-04, 01-06-04, 09-14-04, 01-06-04, 06-10-04, 03-15-04, 11-17-03, 11-07-02, 08-20-02, 06-17-02, 05-20-02, 04-29-02, 04-18-02, 03-28-02, 11-15-04, 11-30-04, 02-21-05
- Operative note of 10-13-04 for TFESI at left L5 and S1 by Dr. Murphy
- Operative note of 12-18-03 for TFESI at right L5 and left L5 by Dr. Murphy
- Procedure note of 12-15-03 for morphine pump refill by Dr. Murphy
- Operative note of 12-05-03 for TFESI at right L5 and left L5 by Dr. Murphy
- Operative note of 04-10-02 for implantation of morphine pump by Dr. Murphy
- Operative note of 03-23-01 for LESI by Dr. Jones, MD
- Physical therapy report of 10-27-04 from The Palestra by Seven Vinson, PT

- Letter of Medical Necessity from Dr. Murphy, MD dated 02-04-04
- Post Discogram CT Scan 11-07-01

B. Records from the Carrier

- Receipt of MDR Request dated 02-04-05 + IRO Assignment
- Pre-Authorization Request for 3 level lumbar discogram by Dr. Murphy
- MDR Request form dated 12-16-04
- Initial Pre-Authorization Denial dated 1-08-04
- Appeal Pre-Authorization Denial dated 11-29-04
- Reconsideration Letter dated 11-19-04 from Cameron Jackson, DC
- Progress Report by Dr. Murphy / Patricia Arnold: 11-15-04, 09-09-04, 01-06-04, 09-14-04,
- Operative note of 10-13-04 for TFESI at left L5 and S1 by Dr. Murphy
- Physical therapy report of 10-27-04 from The Palestra by Seven Vinson, PT
- Memorandum from Caesar Garza, MA dated 11-04-04
- HealthTrust PT note from Seven Vinson dated 11-03-04
- Referral prescription for La Escala Pain Mgmt Center
- HealthTrust Report of 10-29-04 by Caesar Garza, MA
- HealthTrust CPM Session of 10-25-04, 10-22-04 11-01-04, 10-29-04, by Melissa Deleon, MA
- HealthTrust CPM Session of 10-28-04, 10-27-04, 10-26-04, 10-19-04, 10-20-04, 10-21-04 by Caesar Garza, MA
- HealthTrust Pain Mgmt Group note of 10-28-04, 10-19-04, 10-21-04 by Amrit Khalsa (Yoga)
- HealthTrust Individual Psychotherapy session of 07-01-04, 06-21-04, 06-14-04, 06-07-04, by Caesar Garza, MA

REQUESTED SERVICE

The requested service is for a five times a week for four weeks chronic pain management program.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

The reviewer indicates the additional medical records have not established the medical necessity of the proposed treatment. At this tertiary stage of treatment for the patient, this type of psychological program is not medically necessary since the reviewer does not believe that all possibilities of medical treatment have been exhausted. It is clearly documented that the patient continues to present physical sources of pain that superimpose and exacerbate any secondary

psychological symptoms. During the session notes, it states that the patient continues to have some minor improvements from a psychological standpoint, but has significant setbacks with physical functioning. It is reported that he presented with some minor improvements to two ranges of motion of the lumbar spine. However, it also states that no improvements were reached in the following areas: pain variable, lumbosacral tenderness, left lower extremity radiculopathy, SLR, hip extension or abduction, knee flexion, left ankle strength, single leg stand, squat mobility, and sit tolerance. Due to his significant secondary medical pathology, his interventional treatment may be limited, but his medications may not be addressing all of his current needs. His most significant psychological factor is depression/anxiety and the majority of the symptoms listed can be contributed to this diagnosis. In addition, he has documented nerve pain especially at the pump site that has not been treated with a nerve modulator. It is true that the patient has been on Elavil for several years; however, his dose is 20mg qHS. According to dosage guidelines, the effective minimum dose for anti-depressive treatment is 75mg divided daily or 50-100mg qHS. Unfortunately, this medication can have some cardiac precautions and if this is the case, a different anti-depressant may be considered. Nonetheless, unless the patient is on an appropriate dosage of an antidepressant, I do not feel that psychological treatment can be considered effective until the medical component is addressed. In addition, literature supports the use of tri-cyclic anti-depressants for neuropathic pain as this may also assist this gentleman in a decrease of his nerve-mediated pain on a chronic basis.

This patient suffers from post-fusion failed back syndrome and is appropriately treated with the morphine pump, given his history. The reviewer does not see a specific reference or documentation to the effects that the morphine pump will be removed from the patient. However, there is note of decreasing narcotic dependence and use of narcotic medication in the requests for this program. It appears that part of these requests may not be specifically tailored to the clinical situation of this particular patient.

The individual sessions also provide an indication of his expected outcome from a further chronic pain psychological intervention at this time. The patient has had a minimal response at best and he is unlikely to present any significant improvement with further sessions of this program. The improvements that he has presented could be accomplished with an established home physical therapy program. There are also several notes regarding dietary concerns and patient's weight gain. The patient should be seriously counseled on maintaining weight within appropriate range given the chronicity of his pathology and the role that obesity can play in the exacerbation of pain. The request for the medical dispute resolution states that his functional ability has improved from 30 minutes per day to 8-9 hours per day. Previous documentation states that his initial functional tolerance was 4-5 hours per day and he has not yet reached the proposed 8-9 hours per day, per medical records. It also states that he has met the goals of decreased medication use, decreased reliance on medical system and improved return to work outlook. The reviewer indicates that they do not see documentation of a decrease of his morphine pump rate or reported pain level, his reliance on the medical system remains the same and the expected prognosis to return to work remains poor for this patient due to prolonged time off work and persistence of clinical limitations.

In summary, it is the provider's responsibility to establish medical necessity in the request for treatment at this review level. Although the patient does present with a justifiable depression secondary to his failed back syndrome, the reviewer does not feel that all other forms of treatment have been exhausted. The individual sessions have presented minimal improvement at best, predominantly because this type of intervention is not medically necessary at this time. He presents a poor prognosis to improve significantly with this program due to the multifactorial clinical limitations and low anti-depressant medication dosage. According to established medical guidelines, the proposed treatment will not provide any future medical benefit at this time.

REFERENCES

(1) A Placebo-Controlled Randomized Clinical Trial of Nortriptyline for Chronic Low Back Pain. Atkinson JH, Slater MA, Williams RA, et al. *Pain*. 1998; 76 (3): 287-96.

(2) Opioid Therapy for Chronic Noncancer Back Pain. A Randomized Prospective Study. Jamison RN, Raymond SA, Slawby EA, et al. *Spine*. 1998; 23(23): 2591-600.

(3) Effects of Noradrenergic and Serotonergic Antidepressants on Chronic Low Back Pain Intensity. Atkinson JH, Slater MA, Wahlgren DR, et al. *Pain*. 1999; 83(2): 137-45.

(4) Comorbid Psychiatric Disorders and Predictors of Pain Management Program Success in Patients with Chronic Pain. Workman EA, Hubbard JR, Felker BL. (Records supplied by publisher). Aug 2002. 4(4) p. 137-140.

(5) Physicians Desk Reference. Duplay, et al. 2005.

The determination rendered is obtained from standards of care, the reviewer's clinical experience, reasonable medical probability and any pertinent clinical literature. This evaluation has been conducted on the basis of the clinical documentation, as provided; with the assumption that the material is true, correct and complete. If more information becomes available at a later date, such information may or may not change the opinions rendered in this report. 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 10th day of March, 2005

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli