



Specialty Independent Review Organization, Inc.

April 8, 2005

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

Patient:
TWCC #:
MDR Tracking #: M2-05-1155-01
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 with a specialty 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 _____. _____ had worked as a dialysis technician for Coastal Bend Dialysis for approximately one year and a half. On this day, she was lifting a patient weighing 369 pounds and experienced immediate pain in the right shoulder and the right side of the neck. She was sent to Concentra Medical Center and was seen by Dr. Guy Racette. He examined her and released her the same day to light duty with restrictions. The patient attempted to return to work light duty but the overhead reaching exacerbated her pain. Her symptoms persisted while off work with burning pain at the neck radiating to the right upper extremity with associated numbness. The patient has medical history

of hypertension and cardiac pacemaker for arrhythmia, both well controlled by her primary care physician.

The patient then changed her treating physician to Dr. Mauger, D.C., who initially saw the patient on 12-08-03. She then underwent conservative treatment with physical therapy and referred to Dr. Pete Garcia for an orthopedic consult when her symptoms did not improve. The patient referred increasing radicular symptoms and pain with high limitations to her activities of daily living. She persisted with neck pain radiating through the right C5-C6 dermatome and towards the upper thoracic paravertebral area on the right. She also had posterior right shoulder complaints. Her range of motion was limited in all planes, extension, flexion and lateral bending maneuvers. The patient was then referred to a psychological evaluation due to secondary depressive symptoms. The patient was then referred to Dr. Masciale for surgery or possible CESI evaluation. The CESI was cancelled by surgeon due to urgency of the surgery and a cervical myelogram was done. The patient was also seen by Dr. Pete Garcia, an orthopedic surgeon, on 01-08-04. She presented the same subjective and objective findings as before with a positive compression test. He ordered more physical therapy and a cervical CT scan.

The patient underwent an anterior cervical disc fusion at C5-C6 with right C5-6 foraminotomy and root decompression under the care of Dr. Masciale on 04-07-04. The patient did not improve and subsequently underwent multiple diagnostic evaluations. Throughout these diagnostics, the same findings were reported: persistent neuroforaminal narrowing at right C5-C6 with intact fusion. There is also hypertrophy of the facets from C4-C7. A previous right shoulder CT scan of 01-19-04 is unremarkable. EMG/NCV study of the upper extremities of 07-28-04 is unremarkable for radiculopathy.

At a later psychological evaluation with Healthtrust on 09-28-04, the patient presented anger and depressive symptoms in addition to financial strain. All symptoms were relatively consistent with her stage in treatment and persistent symptoms.

The patient continued to consult with Dr. Masciale, her operative surgeon. He ordered various diagnostics in order to pinpoint her persistent pain to no avail. The patient was referred for a second opinion to Dr. Alexander, neurosurgeon, on 12-21-04. He found that she presented a mild C5 radiculopathy with persistent foraminal stenosis of C5-C6. He stated that only if she presented good relief from CESI treatment, then she might be a candidate for a minimal right C5-C6 foraminotomy.

The patient then underwent a designated doctor evaluation of January 2005 and he continued to find range of motion limitations to the right shoulder and cervical area. He recommended cervical epidural steroid injections. The patient underwent one CESI under the care of Dr. Potter; however, she reported no change in her symptoms whatsoever.

After this, Dr. Potter has requested that she undergo diagnostic cervical facet blocks, which have been denied on two occasions. The patient continues in an off-work status with a persistently high level of pain and physical limitation. The patient's physical therapy has been minimal

during the last year due to restrictions placed by the patient's orthopedic surgeon and her physical limitations.

Records Reviewed

General Records: Notification of IRO Assignment dated 03-14-05; Notification of receipt of MDR request dated 03-14-05; MDR Request dated 02-25-05; Pre-Authorization Reconsideration denial dated 02-16-05; Initial Pre-Authorization denial dated 02-09-05

Records from the Doctor / Facility: Notification of receipt of MDR request dated 03-14-05; Reconsideration letter dated 02-17-05 from Dr. Potter; Initial Pre-Authorization denial dated 02-09-05; Pre-Authorization Reconsideration denial dated 02-16-05; Pre-authorization approval of cervical myelogram with post CT scan of 11-22-04; Pre-authorization approval for cervical myelogram with post CT scan of 02-27-04; Office note from Dr. Potter, MD dated 01-31-05, 09-24-04; RME note from Dr. Frank Luckay, MD dated 01-04-05; Office note from Dr. Mauger, DC dated: 12-22-04, 11-18-04, 11-04-04, 10-18-04, 10-03-04, 09-28-04, 09-21-04, 09-09-04, 09-09-04, 08-12-04, 08-12-04, 08-02-04, 07-21-04, 06-16-04, 06-15-04, 05-13-04, 05-13-04, 05-04-04, 04-13-04, 03-22-04, 03-15-04, 03-05-04, 03-01-04, 02-28-04, 02-12-04, 02-09-04, 01-29-04, 01-27-04, 01-23-04, 01-21-04, 01-21-04, 01-21-04, 01-16-04, 01-13-04, 01-12-04, 01-09-04, 12-31-03, 12-24-03, 12-19-03, 12-18-03, 12-17-03; Office note from Dr. John Masciale, MD dated: 09-07-04, 07-13-04, 06-10-04, 05-20-04, 05-06-04, 04-22-04, 04-13-04, 03-11-04, 02-24-04, 02-12-04; Office note from Dr. Alexander, MD dated 12-21-04, 11-02-04; Cervical CT scan with contrast dated 02-24-04 with myelogram; Cervical CT without contrast dated 01-19-04; Cervical Spine CT scan w/o contrast of 06-18-04; Cervical X-ray report dated 12-15-03; EMG/NCV of BUE dated 07-28-04 by Joel Joselevitz, MD

Records from the Carrier: Notification of Designated Doctor Assignment dated 03-04-05; Pre-Authorization request for a CT scan dated 06-15-04; Pre-Authorization request for cervical myelogram dated 05-11-04; Pre-authorization request for appointment with Dr. Potter 09-09-04; Letter dated 05-13-04 requesting cervical myelogram from Dr. Mauger, DC; Doctors note dated 05-25-04 noting procedure suspension per patient request; TWCC 73 form dated 08-12-04, 03-05-04, 02-03-04, 01-08-04, 02-12-04, 01-09-04, 12-15-03, 12-13-03, 12-11-03, 10-18-04, 12-22-04, 02-22-04; TWCC 21 form dated 12-17-03; Employer's first report of injury dated ____; Referral for TWCC 22 dated 10-28-04 from Dr. Mauger; Office note from Dr. Mauger, DC dated: 11-04-04, 10-18-04, 09-28-04, 09-22-04, 08-12-04, 08-02-04, 07-21-04, 06-16-04, 06-15-04, 05-04-04, 04-13-04, 03-22-04, 03-15-04, 03-05-04, 03-03-04, 03-01-04, 02-23-04, 02-12-04, 02-09-04, 01-27-04, 01-23-04, 01-16-04, 01-13-04, 12-31-03, 01-09-04, 12-24-03, 12-22-03, 12-18-03, 12-19-03, 12-17-03, 12-15-03, 11-08-04, 10-03-04; Office note from Dr. Ryan Potter, MD dated: 09-24-04, 01-06-05; Office note from Dr. John Masciale, MD dated: 09-07-04, 07-13-04, 05-20-04, 05-06-04, 04-22-04, 04-13-04, 04-02-04, 03-11-04, 02-24-04, 02-12-04, 06-10-04; Office note from Dr. Pete Garcia, MD dated 02-03-04 & 01-08-04; RME note from Dr. Frank Luckay, MD dated 01-04-05; Office note from Dr. Alexander, MD dated 11-02-04; Office note from Dr. Taligan (Urgent Care) dated 01-29-05; Healthtrust notes dated: 02-11-04, 09-09-04, 09-28-04; Concentra office notes dated: 12-10-03, 12-09-03; Emergency room visit 10-03-04; Billing letter from The Anesthesia

Group dated 07-26-04; Upper GI with Contrast dated 10-07-04; KUB dated 10-06-04; Hepatobiliary scan dated 10-04-04; Portable X-rays dated 10-03-04; Chest X-ray dated 03-3004; Upper EMG / NCV dated 07-28-04; Cervical spine x-rays dated 05-25-04; Cervical spine x-rays dated 12-15-03; Cervical CT scan with contrast 02-24-04; Cervical spine myelogram dated 02-24-04; Cervical spine myelogram on 12-17-04 with CT Scan; CT scan of Cervical spine without contrast 01-19-04; CT scan of Cervical spine dated 06-18-04; Cervical spine CT scan w/o contrast dated 01-19-04 & w/ contrast dated 02-24-04; Pathology report dated 04-21-04; Cervical spine x-ray dated 04-07-04; Operative report of 04-07-04 for Anterior cervical discectomy with decompression and C5 interbody fusion with C6 by Dr. Masciale with pre-op history dated 4/04/04; Right Upper Quadrant Sonogram dated 10-03-04; CT scan of Abdomen and Pelvis dated 10-03-04

REQUESTED SERVICE

The item in dispute is the prospective medical necessity of a right C4-5, C5-6 and C7-T1 facet block under fluoroscopic with sedation.

DECISION

The reviewer disagrees with the previous adverse determination.

BASIS FOR THE DECISION

In this case, ___ is persisting with a high level of subjective complaints and physical limitations one year post anterior cervical fusion at the C5-C6 level. Her symptoms of radiculopathy have not subsided since the surgery. The patient's symptoms have now become chronic and multifactorial. Her case management has been well attended and there has not been excessive treatment to date. She persists with pathology at the level of the cervical spine and her psychological symptoms do not present a significant barrier to continuing with her treatment at this time. She has undergone a CESI, appropriately; however, her response was negligible. Her current multifactorial characteristics of pain include possible post surgical changes, persistent cervical neuritis, epineural scarring, and muscle spasms.

Cervical facet generated pain could be contributing to her current pain syndrome. It is well known that the persistence of cervical facet pain is mainly a clinical diagnosis that cannot be confirmed with traditional diagnostic studies. Although facet hypertrophy may be apparent on an MRI evaluation, this still cannot confirm or deny the presence of pain from the facet joint. According to ISIS guidelines of intervention, the facet joint block is widely utilized as a diagnostic tool precisely to pinpoint certain facet joints or medial nerve branches as persistent pain generators. This patient's sole pathology is not facet-mediated pain, but this can be contributing to her current pain and limitations. She is entitled to appropriate medical care including confirmation of her pain generation and the appropriate treatment.

This patient continues to present significant pain and limitations despite what seems to be very good managed care. She will continue to present some degree of pain and limitations due to her failed surgical outcome. If, however, she can obtain some degree of increased range of motion and decreased pain with facet / medial branch blocks or radiofrequency lesioning, then it would be medically necessary in her case. If she does not present with significant pain relief after the first application, then another venue of treatment would need to be explored.

References:

- (1) ISIS Practice Guidelines and Protocols. 2004.
- (2) Bogduk, N. *Diagnostic Nerve Blocks in Chronic Pain*. Best Pract Res Clin Anaesthesiol. 2002 Dec; 16(4), 565-78.
- (3) Pappas, John L., Cynthia H. Kahn and Carol Warfield. *Facet Block and Neurolysis*. Interventional Pain Management. 1996. pp 284-303.

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 11th day of April 2005

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli