



Specialty Independent Review Organization, Inc.

May 10, 2005

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

Patient:
TWCC #:
MDR Tracking #: M2-05-1478-01
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 was injured on ___ while shoveling cement. This activity caused immediate onset of lower back pain with left leg radiation in the L5-S1 dermatomes. The patient was initially treated at Concentra Medical Center where he was given Toradol, Flexeril, Lortab and Ibuprofen. The patient was placed on modified duty and physical therapy. The patient also complained of left ankle pain on 07-21-04. There are consistent reports of good compliance with all treatments, but condition worsened as of 07-23-04.

The patient underwent a lumbar MRI on 07-27-04, which reported at L4-L5 a small annular tear, facet changes and a small disc bulge. At L5-S1 there is a large left posterior disc herniation with severe nerve/disc compromise and facet changes.

The patient was evaluated by an orthopedic surgeon, Dr. Shah on 08-11-04. He recommended a trial of one ESI and if this failed then surgery would follow. The injection only provided 10% relief and ___ was referred to Dr. Ozanne for surgery. He underwent a lumbar laminectomy and discectomy on 09-08-04.

After surgery, the patient continued with significant pain and consulted with Dr. Andrew Small, MD on 09-28-04. He refers symptoms of lower extremity radiculopathy and left leg weakness. On physical examination, he was found to walk with a limp and had range of motion limitations secondary to pain. Sensory was decreased over the left lower extremity and SLR was positive bilaterally at 30-45 degrees for low back pain. The patient was managed with Lortab and he continued his pain management with Dr. Small. The patient had an injection (unspecified) in mid October with Dr. Eaton, which helped his left radiculopathy. His medication was changed to Naproxen and this kept his pain level at a 3/10. In December 2004, he was prescribed Paxil 20 mg due to diagnosis of moderate anxiety and depression. Patient refers that this medication decreased his symptoms. In January, he changed from Naproxen to Ultracet due to poor pain control, and he continued with Paxil. On 01-27-05, he states that he "ran out" of the Paxil and Ultracet and didn't notice much difference in symptoms. His pain continued at a 3/10 and he requested to continue without meds. On 03-01-05, the patient is back on Ultracet BID to keep pain from 6/10 to 3/10. He was on Paxil intermittently but depression increased. He again was placed on Paxil daily and has some improvement. He presented financial distress, social isolation, sleep maintenance insomnia, depression and anxiety. Paxil was increased to 30 mg on 03-15-05, and he was recommended for surgical consult for failed back surgery.

The patient's post-operative status was evaluated by Dr. Tabba, orthopedics, on 12-22-04. He states that his back has done well from a surgical standpoint and he makes note of secondary ankle pathology. He does not recommend any further surgical treatments.

The patient then underwent a 4-week work hardening program in Jan./Feb. of 2005 with significant physical improvements; however, he continues with depression and anxiety despite medical treatment. The patient has also undergone initial individual psychotherapy and group behavioral sessions with some improvement.

Records Reviewed:

General Records: Notification of IRO Assignment dated 04-20-05; Receipt of MDR Request dated 04-20-05; MDR Request dated 04-05-05; Initial Pre-Authorization Denial dated 03-17-05; Reconsideration Pre-Authorization Denial dated 03-25-05

Records from the carrier: Receipt of MDR Request dated 04-20-05; Initial Pre-Authorization Denial dated 03-17-05; Lumbar MRI dated 07-27-04; Procedure note for lumbar ESI dated 08-19-04 with hospital records (TFESI at left L5 & S1); Operative report of 09-08-

04 for L5-S1 hemilaminectomy and diskectomy on the left by Dr. Stephen Ozanne, MD; Procedure note for piriformis injection by DFW Pain Consultants dated 11-10-04; Office note from Mike Shah, MD dated 08-11-04, 07-01-04, 08-18-04, 08-25-04; Office note from Dr. Steven Ozanne dated 08-27-04; Office notes from Dr. Andrew Small, MD dated: 09-28-04, 10-19-04, 10-28-04, 11-30-04, 12-07-04, 12-14-04, 12-30-04, 01-06-05, 01-27-05, 02-03-05, 02-24-05, 03-01-05, 03-15-05, 03-29-05; TWCC forms dated: 07-01-04, 07-02-04, 07-06-04, 07-09-04, 07-16-04, 07-23-04, 08-04-04, 08-11-04, 08-18-04, 08-25-04, 02-23-05, 03-23-05; Concentra Medical Center Progress Notes dated: 07-01-04, 07-02-04, 07-06-04, 07-09-04, 07-13-04, 07-14-04, 07-16-04, 07-20-04, 07-21-04, 07-23-04, 08-04-04; Active Behavioral Health Notes dated: 02-01-05, 02-09-05, 01-28-05, 02-16-05, 02-23-05, 03-02-05; Ergos Evaluation summary report dated 02-10-05; Summit Rehab Center Office notes from Marivel Subia, DC dated: 10-04-04, 10-05-04, 10-06-04, 10-28-04, 11-01-04, 11-04-04, 11-09-04, 11-10-04, 02-02-05, 02-03-05, 02-04-05, 02-07-05, 02-08-05, 02-09-05, 02-10-05, 02-16-05 x 2, 02-17-05, 02-21-05, 02-23-05, 02-24-05, 03-09-05, 03-23-05, 03-29-05, 04-04-05, 04-12-05; Summit Rehab Center range of motion evaluation dated 03-10-05, 10-22-04, 11-01-04, 11-08-04; Letter of medical necessity for DME dated 10-11-04; Prescription for DME dated 10-14-04; Invoice for DME requested dated 10-11-04; Purchase request for TENS unit dated 02-09-05 x 2; Patient insurance profile; Certification of medical necessity for lumbar brace dated 09-23-04; HCFA Billing form for 10-22-04; Letters of medical necessity for translations dated: 09-28-04, 02-03-05, 02-24-05, 03-01-05, 03-15-05; TWCC medical fee guidelines, 28 TAC 134.202; Letter from Jeffrey Lust accompanying medical records dated 04-26-05

Records from the doctor: TWCC IRO Review Assignment dated 04-20-05; Receipt of MDR Request dated 04-20-05; MDR Request dated 04-05-05; USPS Postal Confirmations x 2; Patient Insurance Profile; Initial Pre-Authorization Denial dated 03-17-05; Reconsideration Pre-Authorization Denial dated 03-25-05; Procedure Note dated 08-19-04 by Dr. Mike Shah, MD for TFESI at left L5 & S1; Office note from Dr. Michael Taba, MD dated 12-22-04; Office notes from Dr. Andrew Small, MD dated: 09-28-04, 11-30-04, 12-14-04, 01-06-05, 01-27-05, 03-01-05, 03-15-05; Active Behavioral Rehab Note dated 10-04-04; Active Behavioral Rehab Chronic Pain Mgmt Summary Request dated 03-11-05; Active Behavioral Rehab Reconsideration Request dated 03-18-05; Active Behavioral Rehab Requestor's Position dated 03-28-05; Active Behavioral Rehab Chronic Pain Mgmt Plan; Summit Rehab Center letter of medical necessity dated 03-01-05; Summit Rehab Center range of motion evaluation dated 03-10-05; Summit Rehab Center Office notes from Marivel Subia, DC dated: 09-24-04, 03-01-05, 03-02-05, 03-10-05

REQUESTED SERVICE

The item in dispute is the prospective medical necessity of a 10 day chronic pain management program (97799-CP).

DECISION

The reviewer disagrees with the previous adverse determination.

BASIS FOR THE DECISION

In summary, it is the provider's responsibility to establish medical necessity in the request for treatment at this review level. The documentation provided does support the need for an initial 10-day chronic pain management program. However, if further sessions were requested then there would need to be substantial documentation as to the patient's positive response to the initial 10-day trial in order to be considered. This patient could primarily benefit from the behavioral intervention of this program. He has undergone all avenues of conservative care and is post-operative 8 months. Throughout his treatment, the patient has remained working Felipe as long as possible and has been compliant with all aspects of his treatment. There is no evidence of malingering in this patient and his symptomatic complaints seem genuine and directly related to his work related injury. He does continue to present pain behavior in regards to adjustment to activities of daily living as well as persistent depression and anxiety.

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 in several areas and this trial 10-day program will be instrumental in targeting his depression and anxiety further. The patient's physical limitations have decreased due to completion of his work hardening program; however, his psychological factors persist.

In terms of established guidelines, the American Academy of Pain Management does recognize the medical necessity of this treatment with various parameters. This patient meets criteria for the following: disrupted ADL due to emotional dysfunction, perceived permanent loss of functioning, mental impairment has exceeded expectation, and response to mental health treatment has continued beyond expected time frame. The patient has also been medically managed with Paxil and has had a good response but continues to be symptomatic.

From a clinical standpoint, the patient is still in an adequate post-operative period for healing. However, given his symptoms, this type of program can enhance his post-operative recovery. His VAS is low at 3/10 and his use of medication is limited to use of Tramadol and Paxil. His symptoms are well controlled with the Paxil; nonetheless, the short-term suspension of this medication in February of this year resulted in an exacerbation of his symptoms. He presents with psychosocial symptoms that need to be addressed further. He can actually benefit from alternate methods of pain control since he is resistant to medication use. This program can assist the patient in decreasing his need for all prescription medications and instruct the patient on appropriate intermittent use of OTC anti-inflammatory medication.

In terms of vocational training, a primary source of the patient's anxiety is related to his perceived inability to return to his normal duties. He does present with a self-image of disability, which needs to be addressed. Due to his limitations with English, he will probably not be

accepted into TRC vocational retraining programs. Due to his pathology, he will either need to return to modified work duties or obtain alternate work. Although the patient is able to reach heavy physical demand levels, it is uncertain if he will be able to maintain these duties for a sustained period of time without aggravation to his injury.

References

- (1) Albright, et al (including Philadelphia and Ottawa Panel Members). *Philadelphia Panel Evidence-Based Clinical Practice Guideline on Selected Rehabilitation Interventions for Low Back Pain*. Physical Therapy. 81(10). Oct. 2001.
- (2) 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.
- (3) Co morbid 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.
- (4) American Academy of Pain Management Guidelines.

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 16th day of May 2005

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli