



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:
IRO CASE NUMBER: M2-05-1875-01
NAME OF REQUESTOR: Smith County Health System
NAME OF PROVIDER: Laurence Rosenfield, M.D.
REVIEWED BY: Board Certified in Pain Management
Board Certified in Anesthesiology
IRO CERTIFICATION: IRO 5288
DATE OF REPORT: 07/15/05

Dear Smith County Health System:

Professional Associates has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO) (#IRO5288). Texas Insurance Code Article 21.58C, effective September 1, 1997, allows a patient, in the event of a life-threatening condition or after having completed the utilization review agent's internal process, to appeal an adverse determination by requesting an independent review by an IRO.

In accordance with the requirement for Texas Workers' Compensation Commission (TWCC) to randomly assign cases to IROs, TWCC has assigned your case to Professional Associates for an independent review. The reviewing physician selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the reviewing physician reviewed relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by a physician reviewer who is Board Certified in the area of Pain Management and Anesthesiology and is currently listed on the TWCC Approved Doctor List.

I am the Secretary and General Counsel of Professional Associates and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or providers or any

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of the physicians or providers who reviewed this case for determination prior to referral to the Independent Review Organization.

REVIEWER REPORT

Information Provided for Review:

An evaluation by Laurence Rosenfield, M.D. on 05/17/99

A follow-up visits with Dr. Rosenfield on 08/02/99

Another follow-up visit with Dr. Rosenfield on 09/27/99

Additional follow-up visits from Dr. Rosenfield on 10/20/99, 03/01/00, 03/14/00, 04/11/00, 05/23/00, 06/06/00, 07/18/00, 08/07/00, 09/07/00, 10/05/00, 11/30/00, 01/04/01, 02/28/01, 03/29/01, 04/24/01, 05/22/01, 06/19/01, 09/24/01, 10/29/01, 11/30/01, 12/27/01, 01/23/02, 02/21/02, 03/21/02, 04/22/02, 05/06/02, 06/12/02, 07/11/02, 08/07/02, and 09/05/02

An evaluation with Larry Evans, D.O. on 09/05/02

Additional follow-up visits with Dr. Rosenfield on 10/02/02, 11/27/02, 12/26/02, 01/23/03, 02/20/03, 03/19/03, 04/17/03, 05/15/03, 06/12/03, 07/10/03, 08/07/03, 09/04/03, 10/29/03, 11/29/03, and 12/23/03

A letter to Anne Curry, R.N., B.S.N. regarding the claimant's lifetime medical needs

Follow-up visits with Dr. Evans dated 07/10/03 and 03/12/04

Additional follow-up visits with Dr. Rosenfield on 01/15/04, 02/12/04, 04/08/04, 05/04/04, 06/30/04, 08/24/04, 09/21/04, 10/07/04, 11/02/04, 11/30/04, and 12/28/04

Follow-up visits with Dr. Rosenfield on 01/25/05, 02/22/05, 03/22/05, 04/19/05, 05/19/05, and 06/15/05

A psychological evaluation dated 03/03/05 by Jana Downum, L.P.C.

A request for 10 sessions of a chronic pain management program from Smith County Healthcare Systems

A preauthorization determination from Intracorp dated 03/28/05 denying the 10 sessions of the chronic pain management program

A request for reconsideration for the 10 sessions of the chronic pain management program from George Esterly, M.S., L.P.C. at Smith County Healthcare Systems on 04/11/05

Another preauthorization determination from Intracorp dated 04/18/05 denying the 10 sessions of the chronic pain management program

Clinical History Summarized:

This claimant was allegedly injured on _____. He was allegedly injured while installing copper coils, which fell off a truck and allegedly onto the claimant. The claimant worked for four years following the injury, but then stopped and had not worked since. He was initially evaluated by Dr. Rosenfield on 05/17/99, who documented a complaint of lumbar and right buttock/leg pain. Dr. Rosenfield documented the claimant had "some injections", which did not provide significant relief, never had back surgery, and never had a definable pain generator. He also documented radiological findings of an old L1 compression fracture and bilateral spondylolysis at L5 without spondylolisthesis. Furthermore, he documented the claimant's medical history of alcohol addiction through 1990, as well as addiction to Hydrocodone, taking 10-20 daily at one point without pain relief. The claimant also had a prior "long history of depression", which was under treatment at the time of this alleged work event. Physical examination documented six significant discrepancies. The straight leg raising test was said to be positive on the right, but producing no greater pain than hip flexion, which would invalidate straight leg raising results. No other neurological findings were documented. Dr. Rosenfield noted the claimant was taking Vicodin, 10 tablets per week, from Dr. Marrow. On a follow-up visit of 08/02/99, Dr. Rosenfield noted the claimant had been switched to Methadone, which he was receiving in a Methadone clinic. On 10/20/99, Dr. Rosenfield documented the claimant was taking 45 mg. of Methadone daily, again through a Methadone clinic. He recommended the claimant continue to receive this Methadone at the Methadone clinic to allow for addressing issues of opiate hoarding, excessive use, etc. On 03/01/00, Dr. Rosenfield took over the claimant's prescription of Methadone, continuing him on 20 mg. twice daily. From 03/14/00 through 01/04/01, Dr. Rosenfield saw the claimant approximately once a month, continuing him on Methadone 50 mg. daily and then tapering him to 10 mg. four times per day. He documented an unchanged pain level of 3-4/10 up to 7-8/10. Dr. Rosenfield followed-up with the claimant on 02/28/01, documenting an essentially unchanged pain level of 5/10 and inadequate control of pain with Methadone. He also noted the claimant was taking Effexor 150 mg. per day and Serzone 300 mg. per day from Dr. Marrow for his ongoing depression. Follow-ups continued on a monthly basis with Dr. Rosenfield, who continued to prescribe the claimant's Methadone 10 mg. q.i.d. with a widely varied pain level of 3-9/10. On 09/24/01, the claimant was reevaluated by Dr. Rosenfield, who documented an unchanged pain level of 6/10 and recommended a right L1 transforaminal epidural steroid injection (ESI). He also ordered a urine Methadone screen. No mention was subsequently made of whether that screen was performed or what its results were. Dr. Rosenfield continued the claimant on Methadone 10 mg. q.i.d., reporting essentially the same pain level through 12/27/01. On 01/23/02, Dr. Rosenfield noted the claimant had tried to taper Methadone down to 25 mg. per day, but had increased pain. He then went up to 30 mg. per day and found sufficient pain relief. From 02/21/02 through 12/02/02, Dr. Rosenfield

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continued to see the claimant on a monthly basis, continuing him on Methadone 10 mg. t.i.d. and he continued to report essentially the same range of pain. Dr. Evans refilled the claimant's medications on 09/05/02 and his impressions were chronic pain syndrome and lumbar spondylosis. On 11/27/02, the claimant was seen by Dr. Rosenfield, who now noted he was taking Zoloft 200 mg. per day with Dr. Marrow and still had a pain level of 4-7/10. From 01/23/03 through 12/23/03, the claimant continued monthly follow-up visits with Dr. Rosenfield, who continued to refill his Methadone 10 mg. t.i.d. and continued to document a pain level of anywhere from 4-10/10. Dr. Evans provided the claimant with a prescription form Methadone 10 mg. t.i.d. On 01/15/04, the claimant was seen by Dr. Rosenfield in follow-up, who documented "no complaints of depression" and no problems sleeping. The claimant was still taking Methadone 10 mg. t.i.d. and, according to the progress notes, was now being followed primarily by Dr. Rosenfield's nurse. On 03/12/04, Dr. Evans refilled the claimant's Methadone 10 mg. t.i.d. and asked him to return in one month. His impression was lumbar spondylosis with degenerative disc disease with resultant chronic spine pain issues. On 04/08/04, Dr. Rosenfield's nurse documented the claimant's ongoing pain level of 5-10/10, with "no complaints". On 06/30/04, Dr. Rosenfield's physician's assistant followed up with the claimant, reporting a pain level of 4-7/10 and continued the use of Zoloft and "some other medication" for depression. In August and September of 2004, Dr. Rosenfield's physician's assistant documented the same pain complaints and the continued prescribing of Methadone 10 mg. three to four times daily. On 10/07/04, the claimant returned to Dr. Rosenfield's clinic reporting he had fallen at home onto a concrete slab with increased pain causing him to increase Methadone to 10 mg. four times daily. His pain level, however, was still only 7/10. The claimant additionally denied depression. On 11/02/04, the claimant was followed-up again by Dr. Rosenfield's nurse, who again documented the claimant "denied depression", but still had a pain level of 6/10 on Methadone 40 mg. per day. On 11/30/04, Dr. Rosenfield's nurse documented "negative depression", again echoed on 12/28/04 by Dr. Rosenfield's physician's assistant, who documented "denies depression". On 01/25/05 and 02/22/05, the claimant was again seen by Dr. Rosenfield's nurse, who on each of those monthly visits, documented "negative depression" and continued use of Methadone, now up to 50 mg. daily. The pain level on each of those visits was documented as being 5-7/10. On 03/03/05, the claimant underwent a psychological evaluation with Ms. Downum. In that evaluation, the claimant stated his pain level was 10/10 every day constantly. There was no actual psychological evaluation and only screening inventories for depression and anxiety. Ms. Downum recommended a 30 session chronic pain management program. The claimant returned to Dr. Rosenfield's nurse on 03/22/05, who again documented "negative depression". On 03/15/05, 10 sessions of a chronic pain management program was requested by Mr. Esterly. Intracorp provided a preauthorization determination on 03/28/05, denying the 10 sessions of the chronic pain management program. On 04/11/05, Mr. Easterly requested reconsideration of the non-authorization of the 10 sessions of the chronic pain management program. On 04/18/05,

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Intracorp provided another preauthorization determination, denying the 10 sessions of the chronic pain management program. On 04/19/05 and 05/19/05, Dr. Rosenfield's progress notes each documented "negative depression" and continuing pain levels of 4-7/10 on Methadone 20 mg. b.i.d. and 10 mg. at night. Dr. Rosenfield noted on 06/15/05, the Methadone was providing the claimant 50% relief of his pain and it was refilled at 50 mg. qd. in divided doses. The claimant had a positive urine screen and Dr. Rosenfield noted they would work on a taper of the Methadone.

Disputed Services:

Ten sessions of chronic behavioral pain management

Decision:

I agree with Pacific Employers Insurance Company that the ten sessions of chronic behavioral pain management is not necessary.

Rationale/Basis for Decision:

This claimant had a clearly documented history of alcohol and narcotic addiction by Dr. Rosenfield, yet Dr. Rosenfield continues to prescribe for the claimant increasing doses of Methadone, which, as a narcotic, was equally addictive with all other narcotics. In addition, Dr. Rosenfield continues to prescribe those medications while clearly documenting the lack of an identifiable pain generator and, for that matter, any evidence of significant structural pathology related to the work injury. Dr. Rosenfield has documented over and over again for the last year or more the claimant's denials of depression and the lack of any evidence of depression in his monthly progress notes. Dr. Rosenfield also stated the claimant had a long-standing history of depression prior to the work injury.

In addition, the psychological evaluation did not appear to be not much more than a listing of the claimant's subjective complaints with only screening inventories, which was utilized to make a diagnosis of depression. Based on the records reviewed, the claimant has never been evaluated by either a licensed Ph.D. Psychologist or Psychiatrist. The medical diagnosis of depression was invalid when made by a licensed counselor, not a Ph.D. psychologist or physician. Therefore, for all the reasons above, chronic pain management for ten sessions was not medically reasonable or necessary.

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This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician with Professional Associates is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

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

If disputing a spinal surgery prospective decision a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk **within ten (10) calendar days** of your receipt of this decision (28 Texas Administrative Code 1133.308 (v) (1)).

If disputing other prospective medical necessity (preauthorized) decisions a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk **within twenty (20) calendar days** of your receipt of this decision (28 Texas Administrative Code 148.3).

This decision is deemed received by you **five (5) calendar days** after it was mailed (28 Texas Administrative Code 102.5 (d)). A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P. O. Box 17787
Austin, TX 78744

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

I hereby verify that a copy of this Independent Review Organization's decision was sent to the respondent, the requestor, TWCC and the claimant via facsimile or U.S. Postal Service this day of 07/15/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel