



# PROFESSIONAL ASSOCIATES

## NOTICE OF INDEPENDENT REVIEW

**NAME OF PATIENT:**  
**IRO CASE NUMBER:** M2-05-1892-01  
**NAME OF REQUESTOR:** Dean McMillan, M.D.  
**NAME OF PROVIDER:** Dean McMillan, M.D.  
**REVIEWED BY:** Board Certified in Pain Management  
Board Certified in Anesthesiology  
Added Qualifications in Pain Medicine  
**DATE OF REPORT:** 07/13/05

Dear Dean McMillan, M.D.:

Professional Associates has been certified by the Texas Workers' Compensation Commission (TWCC) as an independent review organization (IRO). 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 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.

**M2-05-1892-01**

**Page Two**

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 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:**

A TWCC-73 form signed by Lise M. Beard, M.D. on 08/06/04

An initial medical report from Dean McMillan, M.D. dated 08/09/04

An MRI of the lumbar spine performed on 09/01/04 and interpreted by K. Francis Lee, M.D.

An initial evaluation from Pain and Recovery Clinic dated 09/22/04 from Dipti Patel, D.C.

A subsequent medical report from Dr. McMillan dated 10/21/04

An evaluation by Issan Shanti, M.D., Ph.D. dated 10/22/04 from Shanti Pain & Wellness Clinic, P.A.

A procedure note dated 11/11/04 from Dr. Shanti for a lumbar transforaminal epidural lumbar block with a catheter bilaterally at L5-S1 and paravertebral intramyofascial injections

Another subsequent medical report from Dr. McMillan dated 12/22/04

Another procedure note for a transforaminal lumbar epidural block with a catheter bilaterally at L5-S1 and paravertebral intramyofascial injections performed by Dr. Shanti dated 12/30/04

A subsequent evaluation by Dr. Patel dated 01/03/05

A third procedure note for a transforaminal lumbar epidural block with a catheter bilaterally at L5-S1 and paravertebral intramyofascial injections performed by Dr. Shanti dated 01/20/05

Another subsequent medical report from Dr. McMillan dated 01/20/05

A follow-up note from an unknown provider (the signature was illegible) from Shanti Pain & Wellness Clinic, P.A. dated 02/11/05

A Functional Capacity Evaluation (FCE) dated 03/11/05 from an unknown provider (no name or signature was available) at Gulf Coast Functional Testing

Another follow-up note dated 03/11/05 from the unknown provider at Shanti Pain & Wellness Clinic, P.A.

Denise Turboff, M.Ed., L.P.C. performed a work hardening assessment and psychosocial history on 03/15/05

A preauthorization request for 20 sessions of a work hardening program from Nestor Martinez, D.C. dated 03/17/05

**M2-05-1892-01**

**Page Three**

Another follow-up note from the unknown physician dated 04/08/05 from the Shanti Pain & Wellness Clinic, P.A.

A work hardening discharge report dated 04/13/05 from Dipti Patel, D.C.

A mental health evaluation from Ms. Turboff dated 04/19/05

A request for reconsideration for 20 sessions of a chronic pain management program from Dr. McMillan dated 05/09/05

A Designated Doctor Evaluation dated 05/10/05 from Woodrow W. Janese, M.D.

A TWCC-69 form dated 05/10/05

An impairment rating from Dr. Martinez dated 05/11/05

A TWCC-69 form dated 05/11/05

A request for a letter of clarification from Dr. McMillan dated 05/16/05

A TWCC-73 form signed by Dr. McMillan on 06/15/05

**Clinical History Summarized:**

A TWCC-73 form signed by Dr. Beard on 08/06/04 released the claimant to work with restrictions of no lifting, pushing, or pulling over 15 pounds, no squatting, and limited use of his back through 08/10/04. On 08/09/04, Dr. McMillan initially evaluated the claimant and diagnosed him with lumbar radiculitis. He recommended physical therapy three times a week for four weeks. An MRI on 09/01/04 revealed multilevel disc protrusions at L3-L4, L4-L5, and L5-S1 with foraminal stenosis. There was a minor annular tear at L3-L4 and L4-L5. There was also multilevel compression of the thecal sac at L3-L4, L4-L5, and L5-S1. On 09/22/04, Dr. Patel initially evaluated the claimant and provided him with therapy consisting of hot packs, electrical stimulation, stretching, neuromuscular reeducation, lumbar stabilization exercises, and therapeutic exercises. On 10/21/04, Dr. McMillan prescribed the claimant Flexeril and Ultram. Continued passive therapy with the addition of an active program was recommended. Dr. Shanti evaluated the claimant on 10/22/04 and diagnosed him with low back pain and lumbar facet dysfunction. He recommended a bilateral L5-S1 transforaminal injection under fluoroscopy with an epidurogram. On 11/11/04, 12/30/04, and 01/20/05, Dr. Shanti performed a bilateral lumbar transforaminal block with a catheter at L5-S1 bilaterally with paravertebral intramyofascial injections. Dr. McMillan prescribed the claimant Ultram, Flexeril, and Motrin 600 mg. on 12/22/04. On 01/03/05, Dr. Patel provided the claimant with hot packs, electrical stimulation, joint mobilization, neuromuscular reeducation, and therapeutic exercises. On 01/20/05, Dr. McMillan refilled the claimant's Ultram, Flexeril, and Motrin and recommended continued therapy. The unknown physician at Shanti Pain & Wellness Clinic recommended continued medications and therapy. The FCE performed on 03/11/05 revealed the claimant was currently

**M2-05-1892-01**

**Page Four**

functioning in the medium physical demand level, which did not meet the heavy physical demand level of his previous employment. On 03/15/05, Ms. Turboff felt the claimant was a good candidate for a work hardening program after performing her assessment. On 03/17/05, Dr. Martinez (the program director) requested 20 sessions of a work hardening program. The unknown physician at Shanti Pain & Wellness Clinic noted on 04/08/05 the claimant was finishing up the work hardening program and a chronic pain management program would be requested. On 04/13/05, Dr. Patel provided a work hardening discharge report. It was noted the interdisciplinary team concluded the claimant could not safely continue the work hardening program until his complications had been addressed by his treating physician. On 04/19/05, Ms. Turboff performed a mental health evaluation and it was felt he was an appropriate candidate for a comprehensive pain management program. A treatment plan of care was provided. On 05/09/05, Dr. McMillan addressed a request for reconsideration on the denied 20 sessions of a chronic pain management program. Dr. Janese performed a Designated Doctor Evaluation on 05/10/05 and felt the claimant was able to return to work. He was placed at Maximum Medical Improvement (MMI) on 05/10/05 and assigned a 5% whole person impairment rating. On 05/11/05, Dr. Martinez performed an impairment rating. He felt the claimant had not reached MMI, as he was pending a chronic pain management program due to his chronic pain and depressive reaction secondary to his work compensable injury. On 05/16/05, Dr. McMillan submitted a request for a letter of clarification, as the claimant had elected to dispute the Dr. Janese's assessment of MMI. Dr. McMillan provided additional information for Dr. Janese's review. Per a TWCC-73 form signed by Dr. McMillan on 06/15/05, the claimant was taken off of work through 07/21/05, as he was pending a chronic pain management program.

**Disputed Services:**

Twenty sessions of a chronic pain management program

**Decision:**

I agree with the denial issued by the carrier regarding the requested 20 sessions of a chronic pain management program.

**Rationale/Basis for Decision:**

There are several reasons why this claimant was not an appropriate candidate for a chronic pain management program. There was, in fact, nothing in the records to support Dr. Martinez's assertions in his letter of 05/11/05.

**M2-05-1892-01**

**Page Five**

The claimant's psychological testing following failure of the work hardening program actually demonstrated that he still had only a mild to moderate level of depression, unchanged when compared to before the work hardening program, and a significant decrease in his anxiety level as compared to before the work hardening program. Therefore, despite his assertions of the "gravity" of the claimant's psychological state, Dr. McMillan's opinions did not appear to be supported by actual objective data. Dr. McMillan, in his initial evaluation of the claimant, stated the claimant would be referred for orthopedic evaluation if he did not improve with treatment. There was no such documented referral in the medical records I have reviewed. Therefore, the claimant would not be an appropriate candidate for 20 sessions of a chronic pain management program.

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 **within ten (10) calendar days** of your receipt of this decision (28 Texas Administrative Code 142.5c).

**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 **within twenty (20) calendar days** of your receipt of this decision (28 Texas Administrative Code 142.5c).

**M2-05-1892-01**

**Page Six**

This decision is deemed received by you **five (5) calendar days** after it was mailed (28 Texas Administrative Code 102.4(h) or 102.5 (d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings  
Texas Workers' Compensation Commission, MS-48  
7551 Metro Center Dr., Suite 100  
Austin, TX 78744-1609

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 from the office of Professional Associates.

Sincerely,

Lisa Christian  
Secretary/General Counsel