



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:
IRO CASE NUMBER: M2-05-2079-01
NAME OF REQUESTOR: Fernando T. Avila, M.D.
NAME OF PROVIDER: Fernando T. Avila, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 08/12/05

Dear Dr. Avila:

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. determination, and any documentation and written information submitted in support of the appeal.

This case was reviewed by a physician reviewer who is Board Certified in the area of Orthopedic Surgery 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:

Evaluations with Mike Sweeney, M.D. dated 11/18/03 and 12/08/03

An MRI of the cervical spine performed on 01/06/04 and interpreted by L.M. Farolan, M.D.

An EMG/NCV study of the bilateral upper extremities dated 01/22/04 from Zuka Khabbadeh, M.D.

Additional follow-up evaluations with Dr. Sweeney on 02/05/04, 02/13/04, 01/04/04, 04/06/04, 01/16/04, and 04/15/04

A progress report dated 02/12/04 from an unknown physical therapist (the signature was illegible) from Renaissance Orthopedics

A Required Medical Evaluation (RME) dated 03/25/04 by John P. Obermiller, M.D.

An evaluation dated 05/19/04 from Dennis Slavin, M.D.

An initial consultation at South Texas Clinic for Pain Management, P.A. dated 07/20/04 from Shaid Rashid, M.D.

A follow-up evaluation dated 09/13/04 with Dr. Slavin

A follow-up evaluation dated 10/18/04 with Dr. Rashid

Procedure notes dated 10/27/04 and 11/03/04 from Dr. Rashid

Evaluations with Dr. Rashid dated 11/30/04 and 01/04/05

X-rays of the cervical spine and a bone scan dated 01/13/05 and interpreted by Dr. Farolan

An appeal for an adverse determination dated 01/21/05 from Anne Cantu at Pain and Rehabilitation Medicine, Inc.

A Designated Doctor Evaluation dated 02/11/05 from John Dillon, M.D.

An initial assessment dated 04/26/05 from Fernando Avila, M.D.

Follow-up evaluations with Dr. Avila dated 05/09/05 and 05/23/05, as well as 06/06/05

A preauthorization notice dated 05/31/05 from Texas Association of School Boards, Inc.

Another notice of preauthorization dated 06/09/05 from Texas Association of School Boards, Inc.

Another follow-up evaluation dated 06/20/05 by Dr. Avila

An RME dated 07/07/05 with Dr. Obermiller

A follow-up evaluation dated 07/18/05 from Dr. Avila

Clinical History Summarized:

On 11/18/03, the claimant informed Dr. Sweeney that she was lifting some belts on ___ and felt pain in her upper back, in the mid and upper thoracic area. An EMG/NCV study obtained on 01/22/04 revealed electrophysiological evidence indicative of a right C8-T1 radiculopathy, as well as bilateral moderately severe median neuropathy across both wrists, which was worse on the right than the left, and was clinically consistent with severe bilateral carpal tunnel syndrome. Dr. Obermiller performed an RME on 03/25/04 and he felt the claimant's persistent symptoms were related to her degenerative disease and that her back strain, as a result of the compensable injury, should have resolved at that time. On 10/27/04, the claimant underwent right cervical median branch blocks. On 11/03/04, the claimant underwent a left cervical median branch block. Dr. Avila recommended a cervical discogram with post discectomy CT scan at C3-C4, C4-C5, and C5-C6, as well as C6-C7 on 05/23/05. On 05/31/05, Texas Association of School Boards, Inc. provided a preauthorization decision denying the cervical discogram with post discogram CT scan. Dr. Avila recommended reconsideration of the denial on 06/06/05. On 06/09/05, Texas Associations of School Boards, Inc. denied the reconsideration for the outpatient cervical discogram with post discogram CT scan. On 06/20/05, Dr. Avila noted he would bypass the insurance company and appeal to the TWCC in the form of a medical dispute resolution for the claimant's discogram with post discogram CT scan. On 07/07/05, Dr. Obermiller performed another RME and felt the claimant's injury was superimposed over fairly significant degenerative cervical disease, which was not a result of the compensable event and was unrelated. He noted the treatment, while potentially necessary for the claimant's subjective reports, was unrelated to her compensable injury.

Disputed Services:

A cervical discogram with post discogram scan under fluoroscopy

Decision:

I agree with the insurance carrier. I do not feel that the cervical discogram with post discogram scan under fluoroscopy would be reasonable or necessary.

Rationale/Basis for Decision:

In my opinion, this claimant has had an exacerbation of chronic, but asymptomatic cervical degenerative disease. There was no evidence of an appropriate non-surgical plain, such as cervical strengthening. In addition, there are multiple levels of severe abnormalities with a right

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C8-T1 radiculopathy and severe changes on the cervical MRI at C4-C5, C5-C6, and C6-C7. A discogram has been a controversial test, but was the only one reported to connect radiographic abnormalities with symptomatic complaints. The treating physician, Dr. Avila, alleged there was literature in the pain literature to support the use of cervical discography with regarding to surgical treatment. The utility of a discogram was the prediction of what level or levels would be causing symptoms. In this individual, there was significant degeneration at four levels and therefore, the claimant is not a surgical candidate, whatever the results of the cervical discogram may be. Although the discogram would be a reasonable test in this instance, it would not be reasonable for this claimant. Surgical treatment would not result from the result of the test; therefore, the test should not be performed.

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

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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 08/12/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel