



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:
IRO CASE NUMBER: M2-05-2145-01
NAME OF REQUESTOR: Phil Bohart, L.P.C.
NAME OF PROVIDER: Marivel Subia, D.C.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 09/07/05

Dear Mr. Bohart:

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

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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 physical evaluation by Andrew B. Small, III, M.D. dated 02/05/04

An orthopedic evaluation by Juan C. Yabraian, M.D. on 02/09/04

A follow-up evaluation with Dr. Small on 02/24/04

MRIs of the right elbow, right shoulder, cervical spine, lumbar spine, and right knee interpreted by Jay Patel, M.D. on 02/25/04

A Functional Capacity Evaluation (FCE) by Dr. Petersen, D.C. on 03/02/04

A follow-up visit with Dr. Yabraian on 03/08/04

An evaluation by Abraham Armani, M.D. on 03/23/04

A return visit to Dr. Small on 03/30/04

A follow-up evaluation by Dr. Yabraian on 04/07/04

A follow-up visit with Dr. Small on 04/15/04

A lumbar epidural steroid injection (ESI) operative report from Dr. Armani on 04/27/04

A follow-up evaluation by Dr. Small on 05/11/04

An evaluation from Dr. Armani on 05/18/04

A follow-up visit from Dr. Yabraian on 06/02/04

A progress report from Michael M. Taba, M.D. on 06/16/04

A neurosurgical evaluation from Walter X. Loyola, M.D. on 06/18/04

A follow-up visit with Dr. Small on 06/22/04

An evaluation by Arthur J. Speece, III, D.O. on 06/24/04

A follow-up evaluation with Dr. Yabraian on 07/02/04

A progress report by Dr. Loyola on 07/16/04

A follow-up evaluation with Dr. Speece on 07/22/04

A follow-up visit with Dr. Small on 07/29/04

A progress note from Dr. Loyola on 08/13/04

A follow-up evaluation with Dr. Small on 08/24/04

A follow-up consultation and ESI report of procedure with Dr. Speece on 08/26/04

A follow-up visit with Dr. Small on 09/21/04

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A behavioral medicine consultation note from Claudia Ramirez, M.A., L.P.C. and Phil Bohart, M.S., L.P.C. on 09/27/04

A progress report from Dr. Loyola on 10/08/04

A follow-up evaluation from Dr. Small on 10/21/04

A lumbar myelogram and CT scan interpreted by Prabhakar P. Keshava, M.D. on 10/22/04

A progress report from Dr. Loyola on 11/05/04

A follow-up visit with Dr. Small on 11/18/04, 12/02/04, and 01/04/05

A Designated Doctor Evaluation with Brent Belvin, M.D. on 01/12/05

A progress report from Sherry Karnavas, P.A.-C. for Dr. Loyola on 01/14/05

A follow-up evaluation from Dr. Small on 01/20/05, 02/01/05, and 02/10/05

An MRI of the brain interpreted by Kendall Jones, M.D. on 02/22/05

A follow-up visit with Dr. Small on 02/22/05 and 03/01/05

A physical examination/neurosurgical evaluation of an FCE from an unknown provider (the signature was illegible) on 03/02/05

Follow-up visits with Dr. Small on 03/08/05, 03/22/05, and 04/05/05

An individual psychotherapy note from Felisha Hernandez, M.A., L.P.C.I. on 04/14/05

An evaluation by Bryce I. Benbow, D.O., a spinal surgeon and general orthopedist, on 04/19/05

A follow-up visit with Dr. Small on 04/19/05 and 05/03/05

A psychophysiological profile assessment from J. D. Massingill, M.S., L.P.C. on 05/05/05

A request for behavioral health treatment and a biofeedback plan & goals of treatment from Ms. Ramirez on 05/11/05

A preauthorization note from Peggy M. Steed, L.V.N. at Texas Mutual Insurance Company dated 05/16/05

A follow-up evaluation from Dr. Small dated 05/19/05

An EMG/NCV study interpreted by Erwin A. Cruz, M.D. on 06/01/05

A reevaluation by Dr. Small on 06/02/05

A reconsideration letter for preauthorization of the behavioral health treatment and a biofeedback plan & goals form from Tracey Duran, M.S., L.P.C. dated 06/06/05

A preauthorization note from Ms. Steed at Texas Mutual Insurance Company dated 06/09/05

A follow-up visit with Dr. Small on 06/16/05

A requestor's position on preauthorization from Mr. Bohart dated 07/15/05

Clinical History Summarized:

Dr. Small evaluated the claimant on 02/05/04 and recommended a referral to an orthopedist and an MRI. The FCE on 03/02/04 showed the claimant did not meet his job level and a chronic pain management program was requested. A lumbar ESI was performed by Dr. Armani on 04/27/04. Dr. Speece recommended a series of three ESIs on 06/24/04. On 07/29/04, Dr. Small noted the

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claimant was status post the right knee surgery. He provided medications on 08/24/04, 10/21/04, 12/02/04, and 02/10/05. Dr. Speece performed an ESI on 08/26/04. A recommendation for individual psychotherapy and a multidisciplinary work hardening program was made on 09/27/04. Dr. Loyola did not feel the claimant was a candidate for lumbar surgery on 11/05/04. Medication refills were provided by Dr. Small on 11/18/04 and 01/04/05. Dr. Belvin performed a Designated Doctor Evaluation on 01/12/05 and felt the claimant was not a surgical candidate. He placed him at Maximum Medical Improvement (MMI) at that time with a 5% whole person impairment rating. Dr. Loyola noted on 01/14/05, the claimant was involved in a motor vehicle accident (MVA) on _____. Dr. Small disagreed with the MMI and impairment rating on 01/20/05 and he refilled medications on 02/01/05. Medication refills were provided by Dr. Small on 02/22/05, 03/08/05, 03/22/05, 04/05/05, and 05/19/05 and he noted on 03/01/05, there was a denial for medications. Individual psychotherapy was performed by Ms. Hernandez on 04/14/05. On 04/19/05, Dr. Benbow recommended continued physical therapy, medications, and EMG study of the bilateral lower extremities, and a possible selective nerve root block. Biofeedback therapy was requested by Ms. Ramirez on 05/11/05. Ms. Steed noted that a non-authorization note for the biofeedback therapy had been provided on 05/16/05 from Texas Mutual. An EMG/NCV study on 06/01/05 revealed bilateral L5-S1 radiculopathy in the lower extremities. Ms. Duran provided a request for reconsideration of behavioral health treatment on 06/06/05. Ms. Steed continued to provide non-authorization for those services on 06/09/05. On 07/15/05, Mr. Bohart again recommended pre-authorization for biofeedback therapy.

Disputed Services:

Biofeedback therapy once a week for four weeks with three modalities (EMG, PNG, and TEMP)

Decision:

I disagree with the requestor. The biofeedback therapy once a week for four weeks with three modalities (EMG, PNG, and TEMP) would not be reasonable or medically necessary.

Rationale/Basis for Decision:

I do not feel the requested biofeedback therapy with the three modalities would be indicated. The claimant had been through extensive conservative therapy. He has had the biofeedback therapy and it does not appear to have altered the amount of narcotic medication Dr. Small continues to prescribe to the claimant.

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The biofeedback with the three modalities does not appear to be indicated in that scene. The *ACEOM Guidelines* has been the criteria utilized here, which was in the Chapter on cornerstones of disability prevention and management.

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.

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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 09/07/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel