



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:
IRO CASE NUMBER: M2-05-2240-01
NAME OF REQUESTOR: R.S. Medical
NAME OF PROVIDER: Samuel Alianell, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 09/27/05

Dear R.S. Medical:

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 TDI-Division of Workers' Compensation (DWC) to randomly assign cases to IROs, DWC 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 DWC 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

M2-05-2240-01

Page Two

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 decision and order note from Cathleen Parsley, Administrative Law Judge at the State Office of Administrative Hearings on 01/03/03

An evaluation by Samuel J. Alianell, M.D. dated 03/28/05

A prescription for an RS Medical stimulator unit from Dr. Alianell dated 04/13/05

Patient usage reports from Dr. Alianell for the dates of 04/13/05, 04/16/05, 04/17/05, 04/18/05, 04/19/05, 04/24/05, 04/27/05, 04/29/05, 05/01/05, 05/04/05, 05/06/05, 05/08/05, 05/10/05, 05/13/05, 05/14/05, 05/16/05, 05/17/05, 05/18/05, 05/19/05, 05/20/05, 05/21/05, 05/22/05, 05/23/05, 05/30/05, 05/31/05, 06/01/05, 06/03/05, 06/04/05, 06/06/05, 06/07/05, 06/08/05, 06/09/05, 06/11/05, 06/12/05, 06/13/05, 06/17/05, 06/18/05, 06/19/05, and 06/21/05

Letters of medical necessity for continued use of the muscle stimulator unit from Dr. Alianell on 05/18/05 and 05/30/05

A prescription for indefinite use of the muscle stimulator unit from Dr. Alianell on 05/25/05

A notice of certification from the WorkLink Pre-Authorization Department for continued use of the medical stimulator unit dated 06/08/05

A preliminary notice of adverse finding from WorkLink dated 06/24/05

A notice of adverse determination from WorkLink dated 06/29/05

A letter from Danielle Barrera at WorkLink regarding a medical dispute dated 08/12/05

A summary of carrier's position letter from Steven M. Tipton at Flahive, Ogden & Latson law firm dated 08/16/05

A letter from Mr. Tipton dated 09/13/05

Clinical History Summarized:

A decision and order statement was provided by Cathleen Parsley, Administrative Law Judge at the State Office of Administrative Hearings on 01/03/03 indicating the patient was provided an RS-4I neuromuscular stimulator unit on 08/05/01 and 10/05/01. Samuel J. Alianell, M.D. recommended a trial of an interferential/neuromuscular stimulator unit as of 03/28/05, as well as refills of Arthrotec and Norco. Dr. Alianell wrote a prescription for two months' usage of the

M2-05-2240-01

Page Three

neuromuscular stimulator unit on 04/13/05. The patient used the stimulator unit from 04/13/05 through 06/21/05 for a total of 39 days. Dr. Alianell wrote a letter of medical necessity for continued use of the stimulator unit on 05/18/05 and 05/30/05. He then wrote a prescription for indefinite use of the stimulator unit as of 05/25/05. WorkLink provided a notice of certification and approval of the muscle stimulator unit on 06/08/05. On 06/24/05 and 06/29/05, WorkLink then wrote a preliminary notice of adverse finding and denied the recommendation for one month rental of the neuromuscular stimulator unit. Danielle Barrera, Director at WorkLink, wrote a letter to the insurance carrier on 08/12/05 regarding their decision on the denial of the stimulator unit. On 08/16/05, Steven M. Tipton, from Flahive, Ogden & Latson law firm wrote a letter in response to the request for a medical dispute resolution (MDR) for the RS Medical stimulator unit and felt it had been properly denied. Mr. Tipton wrote a letter on 09/13/05 again regarding the dispute for the neuromuscular stimulator unit.

Disputed Services:

Purchase of an RS41 sequential 4 channel combination interferential and muscle stimulator.

Decision:

I disagree with the requestor. The purchase of an RS41 sequential 4 channel combination interferential and muscle stimulator is neither reasonable nor necessary.

Rationale/Basis for Decision:

There is no medical justification for the use of an inferential muscle stimulator in the treatment of lower back pain. There were multiple studies in the literature stating that such a device has no better efficacy than placebo. The only indications for such a device would be atrophy. There was no efficacy in the treatment for which it was prescribed.

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.

M2-05-2240-01

Page Four

YOUR RIGHT TO REQUEST A HEARING

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision. A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk
TDI-Division of Workers' Compensation
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, DWC, and the patient via facsimile or U.S. Postal Service this day of 09/27/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel