



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:
IRO CASE NUMBER: M2-05-2290-01
NAME OF REQUESTOR: Jacob Rosenstein, M.D.
NAME OF PROVIDER: Jacob Rosenstein, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 09/27/05

Dear Dr. Rosenstein:

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

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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:

X-rays of the cervical spine, right shoulder, and lumbar spine interpreted by Timothy P. Olstersdorf, M.D. dated 06/10/04

X-rays of the pelvis, sacrum, and coccyx and a CT scan of the brain interpreted by Michael Lanoux, M.D. dated 06/17/04

An MRI of the cervical spine interpreted by Jonathan B. Bard, M.D. dated 09/23/04

A Required Medical Evaluation (RME) by Deepak V. Chavda, M.D. dated 10/15/04

A Functional Capacity Evaluation (FCE) with Dana L. Noble, M.S.P.T. dated 11/02/04

An MRI of the lumbar spine interpreted by Dr. Bard dated 11/04/04

Designated Doctor Evaluations by Gregg Diamond, M.D. dated 11/09/04 and 02/10/05

A CT scan of the lumbar spine interpreted by Dr. Bard dated 11/29/04

Another FCE with Sara Schmidt, D.C. dated 01/18/05

A progress report from Dr. Schmidt on 02/04/05

A neurosurgical evaluation by Francisco J. Batlle, M.D. dated 02/14/05

An evaluation by Dr. Can Ho (no credentials listed) dated 05/13/05, 06/20/05, 06/29/05, 07/14/05, 07/22/05, 07/27/05, 08/03/05, 08/16/05, and 08/19/05

Neurological evaluation by Jacob Rosenstein, M.D. dated 06/06/05 and 07/18/05

Medical conference notes by Dr. Rosenstein dated 06/13/05, 07/21/05, and 07/27/05

A letter of non-authorization of repeat lumbar and cervical CT scans from the Texas Association of School Boards, Inc. Utilization Department dated 06/15/05

Evaluations by Ved V. Aggarwal, M.D. dated 06/20/05, 07/25/05, and 08/23/05

A cervical and lumbar myelogram and CT scan interpreted by Shelley Rosenbloom, M.D. dated 07/07/05

A letter of appeal for lumbar facet injections from Dr. Rosenstein dated 07/25/05

Letters of non-authorization for lumbar facet injections from Texas Association of School Boards, Inc. dated 07/25/05 and 08/01/05

Clinical History Summarized:

X-rays of the cervical spine, right shoulder, and lumbar spine performed on 06/10/04 and interpreted by Timothy P. Oltersdorf, M.D. showed a C3-C7 fusion, reversal of the normal cervical lordotic curve, and mild levoscoliosis and osteoarthritis of the lumbar spine. An MRI of the cervical spine on 09/23/04 and interpreted by Dr. Bard showed the previous surgery at C3 through C6, a shallow protrusion at C3-C4, a disc bulge at C6-C7, and Chiari Type I malformation. A Required Medical Evaluation (RME) by Deepak V. Chavda, M.D. on 10/15/04 noted only the neck and right shoulder were compensable. An MRI of the lumbar spine interpreted by Dr. Bard on 11/04/04 revealed scoliosis, spondylosis and disc space narrowing at L5-S1, and multilevel facet disease. In a Designated Doctor Evaluation by Gregg Diamond, M.D. on 11/09/04, he recommended further physical therapy, medications, and work restrictions based on the FCE. Dr. Bard interpreted a CT scan of the lumbar spine on 11/29/04 and noted a healed fracture through the left L4-L5 articular facets with a vacuum phenomenon. Dr. Schmidt requested physical therapy on 02/04/05. Another Designated Doctor Report from Dr. Diamond on 02/10/05 showed the patient was not at Maximum Medical Improvement (MMI). Chiropractic therapy was performed with Dr. Can Ho (no credentials listed) from 05/13/05 through 08/19/05. Jacob Rosenstein, M.D. recommended a CT scan of the cervical and lumbar spines on 06/06/05. On 06/15/05, there was a letter of denial for the repeat lumbar and cervical CT scans from the Texas Association of School Boards (TASB) Utilization Department. Ved V. Aggarwal, M.D. recommended continued medications and back and neck therapy as of 06/20/05 and 07/25/05. A lumbar and cervical spine myelogram and CT scan interpreted by Shelley Rosenbloom, M.D. on 07/07/05 revealed post-surgical changes in the cervical spine, along with degenerative changes. The lumbar spine also showed degenerative changes. On 07/18/05, Dr. Rosenstein recommended lumbar facet injections and cervical epidural steroid injections (ESIs). A letter of denial for bilateral lumbar facet joint injections was provided by TASB Utilization Department on 07/25/05 and 08/01/05. On 07/25/05, Dr. Rosenstein wrote a letter of appeal for denial of the lumbar facet injections. Dr. Aggarwal recommended cervical ESIs and continued medications and therapy as of 08/23/05.

Disputed Services:

Bilateral facet injections at L3-L4, L4-L5, and L5-S1

Decision:

I disagree with the requestor. The bilateral facet injections at L3-L4, L4-L5, and L5-S1 are neither reasonable nor necessary.

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Rationale/Basis for Decision:

There are limited indications for facet joint injections. The patient does not appear to have facet mediated pain. The L3-L4 level was normal and does not require injection. The patient has already undergone previous injections, without any documented results. Given the multitude of treatment and lack of benefit, there was no rationale for performing such an injection.

Criteria used for this review included *The AECOM Guidelines*, Lower Back, Chapter 12, and *The North American Spine Society Guidelines* for the treatment of chronic pain.

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

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

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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, 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