



Specialty Independent Review Organization, Inc.

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February 24, 2005

TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M2-05-0752-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Medical Doctor who is board certified in Anesthesiology and Pain Management. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

The patient was injured while working as a housekeeper for . . . . The patient had been on the job for one week and was making a bed and lifted the corner of a king-sized mattress and had a sharp pain in her left hip and lower back. She was taken to the emergency room at Arlington Memorial Hospital where she was given an injection for pain. She had pain in her low back radiating to her left hip and knee. She then saw her own doctor and she reported no prior injuries. Initial physical examination revealed normal cervicothoracic findings with some tenderness over T8. Lumbar midline was tender with decreased range of motion. The patient was prescribed Motrin and Robaxin and x-rays were ordered. Dr. Williams initially consulted with the patient on 06-07-01. He evaluated the patient, who referred low back pain with left thigh numbness and muscle spasms. He refers a significant problem with morbid obesity. The patient was recommended to undergo physical therapy, x-rays and was prescribed Robaxin and

Ibuprofen. She was seen several times while in initial physical therapy, with some good results of decreased lower extremity symptoms. He continued to recommend weight loss to patient. Aquatic therapy was 10-22-01 to 11-16-01. She did report difficulty sleeping in aquatic therapy reports. After patient did not respond to aquatic therapy (she continued to report 6/10 VAS), the patient was referred to Dr. Sazy, orthopedic surgeon. Dr. Sazy recommended surgery but patient would need to lose 30-40 lbs before surgery. The patient was sent to Dr. Hurschman for LESI series.

The patient was initially evaluated a Mega Rehab on 10-04-01. She reports a pain level of 6/10 and sleep duration of 1.5 to 2 hours. After a summary of her treatment to date, aqua therapy was recommended. She was reevaluated on 11-16-01 and she was able to increase her repetition tolerance of exercise and continued exercises at home. On 01-15-02, patient referred a pain level of 4/10 but further request for therapy was suspended until determination of surgery was made. On a handwritten note, the patient stated on 01-11-02 that she had no pain at all after the injections.

The patient was seen by Dorothy Leong, MD who found no paraspinal muscle spasms and patient could walk on heel and toes. There was no spinal tenderness and non-dermatomal sensory loss. Patient was at MMI as of 11-13-01.

Dr Hurschman, evaluated the patient on 11-29-01 and referred lower back pain with bilateral lower extremity symptoms, left more than right. He ordered peripheral injections, ESI, Zanaflex, Celebrex and Ultracet. She then had LESI #1 on 12-14-01 with 50% relief. On 1/10/02, he injected the left sciatic, left inferior and superior gluteal nerves. On 1/17/02, he injected the right superior, right inferior gluteal and left sciatic. Later, she underwent LESI #2 on 1-25-02.

During the injections, the patient continued at Mega rehab reporting a 5/10 pain. After the injections, the patient was evaluated by Ms. Pardue on 2-19-02 and rated pain at 0-4/10. However, the evaluation with Dr. Williams on 2-26-02 continues to report left radiculopathy and muscle spasms. His report of 03-12-02 states that the patient refers little improvement with the ESI treatment and the third was not requested. However, her physical therapy notes of the same period report that the patient has stated no pain whatsoever on occasion.

The patient then had a designated doctor evaluation with Kim Israel, MD on 04-05-02. The patient reports a pain of 8/10 lumbar spine with left leg radiation. Her current medications were Celebrex, Robaxin, Zanaflex, Ibuprofen and Darvocet. She has a height 5'4 and weight 277 lbs. She has lumbar muscle spasms and decreased ROM of 45%. Patient is unable to toe and heel walk. He recommended considering surgery options and continuing medications. She is to be re-evaluated after surgery.

Dr. Sazy ordered a lumbar discogram on 05-16-02, which was realized on 06-20-02. This was positive for annular tear at L4-L5 and L5-S1. Dr. Sazy ordered a two level IDET on 08-07-02, which was done on 11-07-02 by Dr. Casey. Dr. Casey saw the patient, however, on 10-11-02 and she rated pain at a 4/10 and weight of 350 lbs. He voiced concern over weight and IDET outcome. After IDET, she reports persistent low back pain but lower extremity numbness is

better and 100% relief of left leg but pain is now in right leg as of 1-14-03. The patient stated that she did not have right leg pain previous to IDET.

On 7-30-02, Dr. Leong recommended home exercise and weight loss. She refers that obesity is a major factor and she recommends return to work light duty. The patient had an FCE on 3-04-03, which reports that patient is still able to do sedentary work and work conditioning recommended.

The Care Clinic treated the patient from 06-07-01 to 02-27-03 with multiple physical therapy visits. The last note refers that the patient was doing better with no radiculopathy and only had residual back pain.

The patient underwent a designated doctor evaluation by George Wharton on 03-27-03. She reports that post-IDET, her pain is better but not completely. Her medications continue to be Motrin and Robaxin. On 11-15-02 she reports to Dr. Casey that her range of motion is still limited and she wears her brace. She also reports a pain drop from 10/10 to 3/10. Her current height 5'4 and weight 250. Her lumbar range of motion is decreased 50%. Patient received 36 sessions of aquatic therapy at Mega rehabilitation.

FCE of 03-04-03 reported she could do sedentary/light work and her job was light-medium. Her workplace would accommodate restrictions. The patient had work conditioning from 3-31-03 to 05-09-03 for a total of seven sessions with Mr. Love. She had slight discomfort in the lower back and straight leg raise increased the pain. She did improve range of motion, exercise tolerance and less back pain. He advised a home program and light duty.

On 07-30-03, she consulted with Dr. Sazy and reported back and leg pain. Dr. Sazy recommended a weight loss procedure since she would be a surgical candidate if she weighed less. Her current weight is 288 lbs today. Again on 10-01-03, Dr. Sazy reports more right than left radicular pain. He recommended Lap band surgery but patient refused and said she could not lose weight. Medications continued as before with added Ultram. He again saw the patient on 05-26-04, with physical findings unchanged. She is still not a surgical candidate and a pain pump is recommended. Later Dr. Sazy states that she would be a surgical candidate if she lost 60lbs.

The patient saw Dr. Casey on 07-08-04. She refers pain of 8/10 again and refers chronic right lower extremity pain. Her lumbar range of motion is decreased and SLR is positive. He referred the patient to psychological evaluation for SCS trial. Marcus Rojas evaluated her on 07-26-04, who referred patient reported depression, boredom, anxiety and sleeping difficulty. She states that her pain is not constant and only present 50% of the time but she remains functional. She also presents other psychological symptoms and he recommended individual sessions. He did not give clearance for a SCS trial.

Dr. Bauer's peer review of 08-30-04 referred that no more treatment necessary and her primary complication was the morbid obesity. He referred that she strained her spine with one week on-the-job. He refers that her current pain is a combination of her degenerative disc disease, deconditioning and depression. He states that she should never have had the IDET since she was

not motivated or psychologically stable. He states that the SCS is also not recommended since the pain is axial in nature from obesity and degeneration.

The patient underwent a RME by Dorothy Leong on 02-06-05. She was not taking medications at the time of evaluation. The patient referred that the IDET increased her pain and she has more back than leg pain towards the left. Her pain is 5/10. The patient referred "deep" pain and she would not toe or heel walk. There were no muscle spasms and spine was not tender to palpation. She could flex to the knees with her fingertips and extension was 20 degrees. Her SLR was 40 on the right and 10 degrees on the left. However, SLR seated was 90 degrees without difficulty.

In summary, her diagnostics include the following studies. X ray of 06-11-01 reports multilevel facet arthropathy and some disc space height loss at L5-S1. Thoracic MRI scan of 06-29-01 is normal. MRI of lumbar spine of 06-29-01 has DJD with L4-L5 disc bulge and posterior annular tear with smaller bulge at L5-S1. There are also multi-level facet changes. EMG/NCV of 01-28-02 reports mild right S1 radiculopathy and bilateral medial nerve findings. Post discogram CT of 06-20-02 reports L4-L5 with grade III radial tear extending to 3-4 mm disc protrusion. It also reports at L5-S1 a grade II internal tear and posterior annulus accumulation.

#### Records Reviewed

Records from the carrier: MDR Request form dated 01-21-05, Letters with additional documentation for MDR dated 02-09-05 and dated 01-26-05, Pre-Authorization denial for pain management dated 11-01-04, Request for pre-authorization reconsideration dated 11-12-04, Reconsideration pre-authorization denial dated 12-02-04, Pre-authorization non-certification notice dated 12-14-04 for biofeedback and individual psych therapy, Pre-authorization certification for biofeedback dated 08-12-04, Pre-authorization certification for 4 visits of individual psychological therapy dated 08-12-04, Pre-authorization denial for work conditioning dated 03-25-03, Pre-authorization denial for IDET dated 09-03-02, Pre-authorization denial for aquatic therapy dated 10-12-01, Pre-authorization approval for LESI dated 10-26-01, Pre-authorization approval for physical therapy dated 08-23-01, Pre-authorization approval for IDET dated 09-26-02, Pre-authorization denial for lumbar discogram dated 05-22-02, Pre-authorization approval for 3 wks of work conditioning dated 03-31-03, Pre-authorization approval for lumbar discogram dated 06-11-02, Pre-authorization approval for aquatic therapy dated 12-05-01, RME of 08-08-02 by Dorothy A. Leong, MD, RME of 02-06-05 by Dorothy A. Leong, MD, RME record review of 10-05-01 by G. Diamond, MD, Designated Doctor evaluation of 03-27-03 by George W. Wharton, MD, Designated Doctor evaluation of 04-05-02 by Kim Israel, MD, Peer Review of 08-30-04 by David Bauer, MD, Peer Review of 02-16-02 by Dorothy Leong, MD, Peer Review of 03-21-02 by K. Blanchette, MD, Report of medical evaluation of 11-19-01 by Dorothy Leong reporting a 0% IR, TWCC 69 dated 03-27-03 by Kim Israel, MD reporting a 5% IR, Request for copy of peer review dated 04-03-02, Rebuttal letters of 12-17-01, 09-30-02 and 11-21-01 refuting previous MMI and IR, Case Manager summary report of 08-09-01, Pre-Discogram H & P dated 06-20-02 by Phyllis Frostenson, MD, Lumbar x-rays of 06-20-02, Discogram report of 06-20-02 by Phyllis Frostenson, MD, Operative note of 01-10-02 for a right superior gluteal nerve injection, left sciatic nerve block, and left inferior gluteal nerve injection by Dr. Hurschman, Operative note of 01-17-02 for right inferior gluteal neuralgia, right sciatic nerve block and right superior gluteal nerve injection, Operative notes of 12-14-01 and 01-25-

02 for LESI with Dr. Hurschman, EMG/NCV report of 01-28-02, Follow-up notes by Marion Williams, MD: 09-06-01, 10-10-01, 02-27-03, 12-05-01, 07-25-02, 05-16-02, 02-26-02, 03-12-02, 08-07-01, 02-27-03, 10-29-02, 08-21-01, 01-30-03, 06-21-01, 07-09-01, 07-24-01, 04-18-02, 09-24-01, 02-13-03, Initial consult by Marion Williams of 06-07-01, Office notes by Lane Casey, DO: 07-08-04, 10-11-02, and 10-16-02, Office notes by Alan Hurschman, MD: 01-10-02, 01-17-02, 11-29-01, 11-29-01, 12-31-01, and 01-10-02, Office note of John Sazy, MD of 07-30-03, Handwritten office notes from Dr. Sazy, MD: 03-25-03, 05-26-04, 08-07-02, 01-14-03, and 10-01-03, Work status reports (TWCC 73) dated: 06-30-02, 04-18-02, 04-30-03, 08-13-02, 09-06-01, 07-08-04, 10-10-01, 11-25-02, 1-14-03, 08-08-01, 10-01-03, 12-07-01, 07-29-02, 05-16-02, 02-26-02, 03-13-02, 08-13-02, 09-30-02, 01-23-02, 08-08-01, 02-27-03, 10-30-02, 08-23-01, 01-30-03, 06-31-01, 06-25-01, 07-10-01, 07-24-01, Billing record of 03-01-02, 03-22-02, 01-11-02, 03-08-02, 05-03-02, 02-11-02, Billing record of 10-08-02 and 10-10-03 for TENS DME, reconsideration letter for billing of aquatic therapy dated 04-02-02, Billing letter dated 12-03-04, Letter to respond to payment denial for DOS 01-10-02, Various HCFA forms: 06-28-02 x 5, 08-22-02 x 1, and 11-13-01, Work Conditioning Weekly Reports dated 04-04-03, 04-11-03, 04-18-03, and 05-09-03, Psychological evaluation of 07-26-04 by Marcus Rojas, Psychological consult of 09-29-04 and 09-14-04 by Marcus Rojas, Behavioral health consult note of 09-03-04, Aquatic Weekly Flow Sheet of 11-23-01, 11-02-01, 11-09-01, 10-26-01, 11-16-01, Aquatic visit note of 02-15-02, 02-23-02, 02-08-02, Physical performance exam dated 10-19-04, Physical therapy re-evaluation note of 02-19-02, 01-15-02, 11-16-01, Billing record of 03-08-02 for aquatic therapy, Physical therapy daily progress notes: 02-17-03, 02-19-03, 02-21-03, 02-10-03, 02-12-03, 02-14-03, 01-20-03, 01-22-03, 01-24-03, 02-03-03, 02-05-03, and 02-07-03 by V. Love, Physical therapy progress note + FCE from Care Clinic of 03-03-03 and Electra Enterprises of 11-29-01, Physical therapy initial evaluation from Mega Rehab dated 10-04-01, Prescriptions for physical therapy dated 01-16-03, 01-14-02, Menninger patient evaluation (in Spanish) of 10-19-04, 10-12-04, 10-08-04

Records from the doctor: Introduction letter to MDR documentation dated 02-04-05, TWCC IRO Assignment of 02-02-05, Receipt of MDR letter dated 01-31-05, Pre-authorization request of 08-04-04 for 8 individual sessions + biofeedback, Pre-authorization request of 10-25-04 for 10 sessions of behavioral pain mgmt, Reconsideration request of 11-12-04 for 10 sessions of pain mgmt, Advantage Healthcare psychological evaluation by Marcus Rojas of 07-26-04, Handwritten follow-up note of 09-17-04 from Advantage Health, Physical Performance Exam of 10-19-04, Behavioral Health consult note of 10-19-04, Prescription for Pain Management from Dr. Casey dated 10-22-04, OV notes with Dr. Casey of: 11-01-02, 11-15-02, 02-03-05, 07-08-04, and 11-05-02, Prescription for IDET at two levels from Dr. Sazy, Operative note of 11-07-02 for IDET at L4-L5 and L5-S1 by Dr. Casey, DO, IDET billing sheet of 11-07-02 with procedure consent forms, Postoperative instructions for lumbar radiofrequency dated 11-07-02 with procedure photographs and recovery room record, Lumbar discogram result dated 06-20-02 by Phyllis Frostenson, MD, with lumbar x-rays and H & P of the same date, Lumbar MRI dated 06-29-01 and lumbar x-rays of 06-11-01.

## REQUESTED SERVICE

The item in dispute is the prospective medical necessity of a ten session chronic behavioral pain management program.

## DECISION

The reviewer agrees with the previous adverse determination.

## BASIS FOR THE DECISION

The reviewer states this patient now presents with the management of a chronic lumbar pain, which has been exacerbated by her corporal habitus. The patient had an underlying degenerative disc disease, but the annular tear cannot be ruled out as an acute injury that might have occurred on \_\_\_\_\_. The primary disc pathology is degenerative, or at least not caused by her work duties at \_\_\_\_\_, since she had only been working with this company for one week before her injury date. Since her injury, the patient has had extensive conservative treatment and several interventions as well. She has had all modalities of physical therapy, including an ample time with aqua therapy. She has undergone diagnostics, a LESI series and a two-level IDET. The patient has not presented significant improvement to date in comparison with her original injury pain level. She did refer significant improvement with the LESI treatment and even referred being pain-free during her concomitant physical therapy sessions. She does refer that her left lower extremity radicular symptoms subsided with the IDET, but the same procedure initiated symptoms of radiculopathy towards the right lower extremity. She has been offered surgery; however, her barrier to this modality is her corporal weight. She has been advised by several physicians, and on several occasions, during her treatment that her weight was a hindrance to her recuperation. Nonetheless, the patient has not made a contributory effort for weight loss and even negated the offer of a lap band procedure.

In terms of the proposed chronic pain management program, the only mention of contributing psychological symptoms previous to July of 2004 is the occasional reference to sleep difficulty, which would be commonplace with persistent back pain. Then, the patient was referred for psychological clearance for a SCS trial and diagnosed with several psychological factors, including chronic pain syndrome, severe depression and severe anxiety. She underwent individual session of psychological treatment and biofeedback. However, there is no specific reference to her progress throughout this treatment and certainly no direct indication that this progress would improve with a full pain management program. There is reference to these initial interventions in the request for pre-authorization, but these are generalized at best. This would be essential prior to undergoing a chronic pain management program in order to address her depression medically before utilizing a terminal point of treatment such as this proposed program.

The Spinal Treatment Guidelines were directly referred to in the request for pre-authorization. These The Spinal treatment guidelines indicate that the treatment of a work related injury should be: adequately documented, effective and modified with clinical changes, in most

appropriate/least intensive setting, cost effective, consistency with guideline, objectively measured and demonstrated functional gains and consistent in demonstrating ongoing progress toward recovery with appropriate reevaluation of treatment. The reviewer does not feel that this request meets several of these points for this patient. Her response to the individual sessions is adequately documented or modified with clinical changes. The patient has undergone extensive treatment with no significant change in her clinical condition and the participation in this program is also very unlikely to cause a change in her pain or perception of pain. The reviewer does not feel that participation in this program will result in any ongoing progress toward recovery.

The treatment goals are to stabilize depression / anxiety, develop realistic goals and obtain effective self-regulation skills. He states that patient has significant difficulty obtaining her medications due to denials. The reviewer refers that she continues with anxiety due to psychosocial stressors. He states that the patient is still in significant pain from a chronic injury. He states that the individual sessions have not been sufficient since she needs increased intensity and an interdisciplinary approach for treatment. He states that she suffers from chronic pain syndrome, difficulty dealing with negative emotions, distorted pain/disability beliefs, inadequate coping skills for stress, deconditioning lifestyle, inability to work / period of disability and depression or anxiety. He states that the patient meets the criteria for referral to a chronic pain program due to: Client is likely to benefit from the program, Client has not responded to previous appropriate medical care and further intervention is not expected, Pain interferes with general functioning, Threat of significant or permanent loss, Risk for development of an excessively disabled lifestyle (depression, anxiety, lack of confidence, inadequate coping strategies and personality style, Inability or perceived inability to work and Chronic debilitating pain.

The treatments proposed include: supportive listening, cognitive psychotherapy, motivational interviewing, biofeedback, self-regulation training, coping skills training and psycho-education of chronic pain.

The reviewer does not agree that the patient is likely to benefit from the program. The reviewer indicates that she has likely not responded to previous appropriate medical care, in part due to physical factors such as her morbid obesity and not psychosocial factors. The reviewer notes that her prolonged period off work, despite her ability to realize light duty, has been the factor that has fomented her perceived inability to work and increased her difficulty with coping strategies. Considering that the patient has been able to realize light duty for some time and that she has never utilized narcotic medications for this injury.

In the request for reconsideration of 11-12-04, the letter states that the patient has been compliant and does not exhibit "poor effort". The requestor states that conservative care has been unsuccessful and she has severe levels of depression and anxiety with severe social dysfunction. He states that she needs to learn pain control without medication and has already been on a trial of Celexa. He also states that long-term use of narcotics is detrimental and she needs to be weaned off her narcotic medication (please note that none of the listed medications are narcotics). She continues to report a pain level of 4-6/10. He states that the TWCC guidelines

mandate that the treatment be warranted if the natural effects from the injury are treated to promote recovery or cure the effects of the injury. However, the requestor has presented has not shown that she will benefit from this type of program. He has not presented specific reference to her individual response to her individual psychological sessions or to the anti-depressant medication. There are a few template sheets of four visit dates from 09-03-04 through 10-19-04 but no significant clinical information on these progress notes. She also is not in need of any type of detoxification program since she has not been prescribed narcotic medication and is currently not taking any medication at all.

On the other hand, the patient has been very compliant with her treatment and her symptoms have shifted, though not drastically. Unfortunately, her VAS pain scale does not always correspond to her subjective symptoms or her correlation with surgical procedures. There is good documentation of patient's improvement with various modalities of physical therapy in regards to physical capacities; however, the VAS continues to fluctuate at high levels. In summary, the reviewer's professional opinion is that this program is not indicated for the patient at this point in time. The indication for the program has not been individualized for this patient. TWCC guidelines state that the patient's response to treatment must be properly documented, however the precursor to this proposed program, the individual sessions and biofeedback, are not adequately referenced or discussed. Given her lack of response to previous treatment and lack of motivation for weight loss, I do not feel that the patient is likely to benefit from this type of program. I believe that the most significant factors in her chronic pain syndrome continue to be her prolonged time off work and physical deconditioning, which are hindering the patient significantly.

## **VI. REFERENCES**

- (1) Occupational Medicine Handbook from OEM, general criteria.
- (2) Spinal Treatment Guidelines.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

**YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective *spinal surgery* decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other *prospective (preauthorization) medical necessity* disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker’s Compensation Commission, P.O. Box 17787, Austin, TX 78744. The fax number is 512-804-4011. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(u)(2).

Sincerely,

Wendy Perelli, CEO

**I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant’s representative) and the TWCC via facsimile, U.S. Postal Service or both on this**  
**25<sup>th</sup> day of February, 2005**

**Signature of Specialty IRO Representative:**

**Name of Specialty IRO Representative: Wendy Perelli**