



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT:
IRO CASE NUMBER: M2-05-1918-01
NAME OF REQUESTOR: San Antonio Spine & Rehabilitation
NAME OF PROVIDER: Joseph Flood, M.D.
REVIEWED BY: Board Certified in Psychiatry
Board Certified in Neurology in Psychiatry
Board Certified in Pain Medicine
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 07/15/05

Dear San Antonio Spine and Rehabilitation:

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 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.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by a physician reviewer who is Board Certified in the area of Psychiatry, Board Certified in Neurology in Psychiatry, and Board Certified in Pain Medicine and is currently listed on the TWCC Approved Doctor List.

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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 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:

An Employer's First Report of Injury or Illness dated

An Employer's First Report of Injury or Illness dated

An Impairment Rating performed by William Edwards, Jr., M.D. on 02/07/94

A follow-up office note from Robert Johnson, M.D. dated 04/17/94

A progress note from Mario Perez, D.O. dated 08/12/04

An initial patient evaluation dated 08/30/04 from Culebra Injury & Pain Clinic signed by Patrick Waikum, D.C.

A physical medicine/rehabilitation program dated 08/30/04 from Dr. Waikum

Therapy notes on 09/02/04, 09/03/04, 09/07/04, 09/08/04, 09/11/04, 09/20/04, 09/23/04, 09/24/04, 10/05/04, 10/14/04, and 10/27/04

An MRI of the pelvis performed on 09/17/04 and interpreted by Howard Unger, Jr., M.D.

An MRI of the lumbar spine obtained on 09/17/04 and interpreted by Dr. Unger

An electrodiagnostic study performed by Meyer L. Proler, M.D.

A letter of medical necessity from Ed Cerday, M.D. for Stadol

An emergency room note dated 11/09/04 from South Texas Regional Medical Center

An abdominal ultrasound performed on 11/23/04 and interpreted by Allen Truax, M.D.

An ultrasound of the pelvis and right inguinal area performed on 11/30/04 and interpreted by W. Gregory Wojcik, M.D.

A chronic pain evaluation performed on 12/27/04 performed by Scott Persinger, L.C.S.W.

A physical therapy evaluation dated 10/27/04 from James Lee, P.T.

A Required Medical Evaluation (RME) from Steven Cyr, M.D. dated 11/20/04

Notes from an interdisciplinary rehabilitation program on 11/23/04, 12/07/04, 12/08/04, 12/09/04, 12/14/04, 12/15/04, 12/16/04, 12/17/04, 12/22/04, 01/04/05, 01/05/05, 01/06/05, and 01/12/05 from Mr. Persinger, an unknown counselor (the signature was illegible), and two other unknown physical therapists (the signatures were illegible)

A letter of medical necessity regarding the claimant's medications on 12/07/04 from Aly Khyn Zarzula, D.O.

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A CT scan of the abdomen and a CT scan of the pelvis dated 12/15/04 interpreted by Dr. Wojcik
A preauthorization notice from Forte dated 12/16/04 denying an additional 10 days of the chronic pain management program

A TWCC-73 form from Dr. Cerday dated 12/21/04

An evaluation from Dr. Cerday at Culebra Pain Relief Clinic dated 01/20/05

An initial evaluation from Joe Flood, D.C. dated 02/04/05 at San Antonio Spine & Rehabilitation Therapy visits with Dr. Flood on 02/07/05, 02/09/05, 02/11/05, 02/23/05, 02/25/05, 02/28/05, 03/02/05, 03/04/05, 03/07/05, 03/14/05, 03/16/05, 03/21/05, 03/23/05, 03/28/05, 03/30/05, 04/06/05, 04/13/05, 04/15/05, 04/20/05, 04/22/05, 04/25/05, 04/26/05, 05/03/05, 05/11/05, 05/16/05, 05/18/05, 05/23/05, 05/31/05, and 06/03/05

An evaluation from Gerardo Zavala, M.D., a neurosurgeon, dated 02/14/05

A follow-up evaluation with Dr. Flood dated 03/28/05

An evaluation by C.P. Garcia, M.D. dated 04/04/05

A preauthorization notice from Forte dated 04/06/05 denying the lumbar discogram

A Designated Doctor Evaluation from Edward B. Elmer, M.D. dated 04/15/05

Another preauthorization notice from Forte dated 04/18/05, recommending authorization of the lumbar discogram

A request for six sessions of individual therapy made by Dr. Flood on 05/06/05

A discogram performed on 05/11/05 and interpreted by Donald Willig, M.D.

A subsequent evaluation from Dr. Flood dated 05/11/05

A psychiatric evaluation dated 05/11/05 from Jaime Ganc, M.D.

A preauthorization notice from Forte, denying the six sessions of individual therapy

Another preauthorization notice from Forte dated 05/27/05 again denying the six sessions of individual therapy

A TWCC-73 form signed by Dr. Zavala on 06/16/05

Clinical History Summarized:

An Employer's First Report of Injury or Illness dated _____ noted the claimant was transferring a resident from a stretcher with her left leg on the bed. While she was transferring the patient, the bed moved and she stretched both her legs to prevent falling on the patient. The Employer's First Report of Injury or Illness dated _____ noted the claimant was transferring a patient back to the bed, when he almost went out of the bed. The claimant countered the resident and used herself as a shield. On 02/07/94, Dr. Edwards performed an impairment rating regarding an injury on _____. The claimant received a 0% whole person impairment rating. It was noted the claimant's range of motion disqualified her by not passing the validity test with straight leg raising on the left side being 60 degrees and the sacral range of motion being only 20 degrees. She also had an inconsistent straight leg raising. On 02/17/94, Dr. Johnson agreed with

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the claimant's impairment rating and offered her an occasional anti-inflammatory and recommended a neuromuscular stimulator. On 08/12/04, the claimant reported worsening low back pain with radiation down the right leg to Dr. Perez. He diagnosed her with a lumbar strain with radiculitis and degenerative joint disease. Celebrex was prescribed and an MRI of the lumbar spine was recommended. On 08/30/04, Dr. Waikem recommended therapy three times a week for four weeks to include joint mobilization, manual traction, electrical stimulation, ultrasound, massage, hot and cold packs, and therapeutic exercises. From 09/02/04 through 10/27/04, the claimant attended therapy with Dr. Waikem. An EMG/NCV study of the bilateral lower extremities was normal on 09/20/04. An MRI of the lumbar spine on 09/17/04 revealed mild multilevel lumbar spondylosis without central canal stenosis or marked neural foraminal narrowing detected. Mr. Persinger recommended four sessions of individual counseling and eight sessions of biofeedback and/or PPA on 10/27/04. On 10/27/04, Mr. Lee felt the claimant was a good candidate for an interdisciplinary chronic pain management program. Dr. Cyr performed an RME on 11/20/04 and felt the claimant did sustain an abdominal/groin strain and possibly a right sacroiliac joint strain and lumbosacral sprain/strain. He recommended the claimant halt all of her narcotic medications and felt the claimant should continue a self-directed home exercise program. He also recommended possible sacroiliac joint injections. He also felt the claimant needed to have her abdominal issues evaluated. On 11/23/04, an abdominal ultrasound revealed no distinct abnormalities, but there was echogenicity of the liver that was borderline. From 11/23/04 through 01/12/05, the claimant attended a chronic pain management program. This included individual therapy, group therapy, physical therapy, and biofeedback with multiple providers. Dr. Zarzula noted on 12/07/04, he had prescribed the claimant medications for her severe depressive disorder and extreme anxiety; however, the medications were not listed on the note. On 12/15/04, CT scans of the abdomen and pelvis were normal. On 12/16/04, Forte denied the 10 additional sessions of the chronic pain management program. On 01/20/05, Dr. Cerday provided an illegible handwritten note. Dr. Flood performed an initial evaluation on 02/04/05 and recommended active and passive care three times a week for four weeks. From 02/07/05 through 06/03/05, the claimant attended therapy with Dr. Flood. On 02/14/05, Dr. Zavala prescribed the claimant Lortab and Ambien and noted he would need to review the claimant's previous medical records. Dr. Flood reevaluated the claimant on 03/28/05 and recommended additional therapy three times a week for four weeks. On 04/04/05, Dr. Garcia diagnosed the claimant with displacement of a lumbar IVD, radiculitis/neuralgia, myofascial pain syndrome, facet syndrome, lumbosacral sprain/strain, and SI sprain/strain. Neurontin and Etodolac were prescribed and six sessions of individual counseling were recommended. Forte provided another preauthorization notice on 04/06/05 denying the outpatient lumbar discogram. On 04/18/05, Forte overturned the denial and requested authorization for the lumbar discogram. Dr. Elmer performed a Designated Doctor Evaluation on 04/15/05 and placed the claimant at clinical Maximum Medical Improvement (MMI) on

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04/16/05 and assigned her a 5% whole person impairment rating. Dr. Flood requested six sessions of individual therapy on 05/06/05. A lumbar discogram on 05/11/05 revealed simulation of the claimant's pain at L5-S1 where there was a central annular disruption posteriorly. Dr. Flood performed a follow-up evaluation on 05/11/05 and noted the individual therapy had been denied. Forte provided another notice of preauthorization denying the individual therapy sessions. On 05/11/05, Dr. Ganc recommended six weekly sessions of individual therapy to be accomplished over a two month period. On 05/27/05, Forte provided another non-authorization for the six sessions of individual therapy. On 06/16/05, Dr. Zavala signed a TWCC-73 form, taking the claimant off work through 07/04/15, as she was unable to sit, stand, lift, or bend.

Disputed Services:

Six sessions of psychotherapy

Decision:

I agree with Texas Hospital Insurance Exchange that the requested six sessions of individual psychotherapy are not reasonable or necessary.

Rationale/Basis for Decision:

The patient had what appears to be a hernia. She has had various treatments, including a multidisciplinary pain treatment program. In reasonable medical probability, ongoing treatment would only operantly reinforce a pain syndrome, therefore the recommended treatment is medically unnecessary. In fact, the patient has already had a tertiary level of care, specifically a pain management program.

The American College of Occupational and Environmental Guidelines (ACOEM) chapter 6, page 107, reads: "The immediate focus should be on functional improvement rather than on abolishing pain. Physicians should be aware that while complete cessation of pain may not be a realistic goal for some patients, self-care, functional restoration, and successful reintegration into the workforce can be attainable goals even though the complete elimination of pain may not be possible." There are many dimensions to pain. A major dimension of chronic pain complaints is fear avoidance as a result of a fear of re-injury. Pain related to fear avoidance models typically describe these chronic pain patients as perpetuating disability, and ACOEM chapter 6, page 113 reads "Exposing patients to activities they fear as a way to reduce their pain-related fear can be a

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powerful intervention for chronic pain. A decline in pain related fear may reduce pain vigilance, resulting in a decline in reported pain intensity." The proposed individual psychotherapy would not provide the exposure to feared activities that purportedly generate pain. In fact, the patient has already had the above-recognized treatment in the form of a pain management program. There are no criteria supporting repetitive use of the treatment in question here for chronic benign nonmalignant pain syndromes.

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 07/18/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel