



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-0109-01
NAME OF REQUESTOR: _____
NAME OF PROVIDER: Charles Willis, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 11/11/05

Dear Mr. ____:

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 conflicts of interest that exist between him the provider, the injured employee, the injured

M2-06-0109-01

Page Two

employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the Independent Review Organization.

REVIEWER REPORT

Information Provided for Review:

Evaluations with Charles E. Willis, II, M.D. dated 02/08/01, 04/05/01, 05/10/01, 06/11/01, 06/25/01, 07/02/01, 07/16/01, 07/30/01, 08/20/01, 08/23/01, 10/11/01, 10/25/01, 11/19/01, 12/10/01, 01/24/02, 02/14/02, 03/14/02, 04/11/02, 05/09/02, 06/10/02, 07/08/02, 08/05/02, 08/26/02, 09/19/02, 10/10/02, 11/07/02, 12/19/02, 01/16/03, 02/27/03, 03/27/03, 04/17/03, 05/22/03, 06/26/03, 07/31/03, 08/21/03, 09/22/03, 10/27/03, 11/24/03, 12/22/03, 01/29/04, 02/26/04, 03/25/04, 04/24/04, 06/07/04, 07/05/04, 09/02/04, 10/04/04, 11/08/04, 12/06/04, 12/30/04, 02/07/05, 03/07/05, 04/04/05, 05/05/05, 06/16/05, 07/11/05, 08/15/05, and 09/16/05

Procedure notes with Dr. Willis dated 03/28/01, 05/02/01, 06/25/01, 08/23/01, and 01/17/02

A vocational evaluation from Pate Rehabilitation on 07/10/01 and 07/11/01 with Betsy Zeringue, M.S., C.V.E.

Evaluations with Daniel Shalev, M.D. dated 03/20/02, 05/20/02, 08/16/02, 10/17/02, 01/17/03, 04/01/03, 05/08/03, 10/07/03, 03/01/04, 03/18/04, 05/05/04, 07/15/04, 09/03/04, 09/15/04, 10/28/04, and 02/15/05

A notice of decision for social security benefits dated 09/26/02 and signed by James W. Kerr, Administrative Law Judge

An operative report dated 10/07/02 from Dr. Shalev

A narrative for a Functional Capacity Evaluation (FCE) dated 01/26/03 from Gregg Diamond, M.D.

Another operative report dated 02/18/03 from Dr. Shalev

A TWCC-73 form signed by Dr. Willis on 05/22/03

An operative report dated 08/29/03 from Dr. Shalev

An addendum from Dr. Diamond dated 01/20/04

Another operative report dated 02/02/04 from Dr. Shalev

A letter addressed "To Whom It May Concern" dated 03/12/04 from Dr. Shalev

Operative reports dated 03/15/04 and 04/05/04 from Dr. Shalev

A procedure note for multiple trigger point injections dated 05/18/04 from Dr. Shalev

A note regarding the patient's issues with his adjuster dated 09/15/04

A letter "To Whom It May Concern" dated 09/24/04 from Dr. Willis

M2-06-0109-01

Page Three

An acknowledgement of receipt and completion from Compliances and Practices from the Texas Workers' Compensation Commission (TWCC) dated 10/26/04

A follow-up report from Dr. Diamond dated 12/31/04

A preauthorization determination dated 03/02/05 from Argus Services Corporation

Another preauthorization notification from Argus Services Corporation dated 06/24/05

A letter regarding examination of the patient by Dr. Winians, M.D. dated 07/02/05 from Bill Morris Law Firm

A preauthorization request dated 07/11/05 from Buckner Pain Center

Another preauthorization determination dated 08/02/05 from Argus Services Corporation

A letter from Henry K. Hamilton, M.D. dated 08/02/05

Another preauthorization determination dated 08/11/05 from Argus Services Corporation

A letter "To Whom It May Concern" dated 09/16/05 from Dr. Willis

Clinical History Summarized:

On 02/08/01, Dr. Willis diagnosed the patient with status post cervical fusion times two, cervical radiculopathy, and myofascial pain in the cervical, thoracic, and lumbar regions. He recommended a repeat cervical epidural steroid injection (ESI) and Ultram was prescribed. On 03/28/01 and 05/02/01, the patient received a cervical ESI at C7-T1, as well as a left trapezius trigger point injection on 05/02/01. The patient received bilateral trapezius trigger point injections on 06/25/01 from Dr. Willis. Dr. Willis performed an ESI at L5-S1 on 08/23/01 and 01/17/02. On 10/07/02, the patient received a trial implant of a temporary cervical and lumbar spinal cord stimulator lead, as well as implants of a second temporary cervical and lumbar lead by Dr. Shalev. On 01/17/03, Dr. Shalev noted the patient wanted to go ahead with permanent placement of the spinal cord stimulator, but they would meet with the neurosurgeon to determine what kind of cervical spinal cord stimulation would be recommended for the patient. The patient underwent surgical implantation of a permanent thoracic spinal cord lead, surgical implantation of a second permanent thoracic spinal cord stimulator lead, and extensive complex interosseous testing of the spinal cord stimulator leads on 02/18/03 by Dr. Shalev. The patient reported diminished coverage from the spinal cord stimulator in his back and legs to Dr. Shalev on 04/01/03. Dr. Shalev performed diagnostic medial branch zygapophysial cervical facet nerve blocks at C2, C3, C4, C5, C6, and C7 bilaterally, bilateral occipital nerve blocks, and cervical facet steroid injections at C4-C5, C5-C6, and C6-C7 bilaterally on 08/29/03. Dr. Shalev also performed cervical facet steroid injections of C2-C3, C3-C4, C4-C5, and C5-C6 bilaterally on 09/12/03. On 01/29/04, Dr. Willis continued the patient's Neurontin, Methadone, Celebrex, and Doxepin. He was currently not working at that time. On 02/02/04, Dr. Shalev performed cervical facet joint injections bilaterally at C2-C3, C3-C4, C4-C5, and C5-C6, diagnostic medial branch zygapophysial cervical facet nerve blocks at C2, C3, C4, C5, and C6 bilaterally, and at

M2-06-0109-01

Page Four

the third occipital nerves bilaterally. Dr. Shalev performed radiofrequency thermal neurectomy of the left C2, C3, C4, and C6 medial branch zygapophysial facet nerves and at the third occipital nerves and cervical facet injections at C2-C3, C3-C4, C4-C5, C5-C6, and C6 bilaterally on 03/15/04 and the same procedures on the right on 04/05/04. Dr. Shalev noted on 07/15/04 that the patient continued to have significant overall pain relief to approximately 60-70%. The patient received three trigger point injections that day. On 10/04/04, Dr. Willis refilled the patient's Methadone, Celebrex, Neurontin, and Zanaflex. On 02/15/05, Dr. Shalev noted the patient's stimulator was functioning properly with appropriate stimulation in the low back, right buttock, and right leg. It decreased the patient's pain by greater than 60%. He recommended a radiofrequency thermal denervation of the left C2, C3, C4, and C6 medial branch zygapophysial facet nerves and the left third occipital nerve combined with cervical facet injections at C2, C3, and C6-C7 bilaterally. On 03/02/05, Argus provided a preauthorization determination denying the left sided radiofrequency facet and left sided cervical facet block. On 06/16/05, the patient reported neck pain rated 9/10 and low back pain rated 5/10 to Dr. Willis. Dr. Willis felt the patient was worsening and he felt the patient needed to undergo the left cervical facet rhizotomy as a therapeutic modality. On 06/24/05, Argus denied the left cervical facet rhizotomy. Argus provided another preauthorization determination dated 08/02/05, again not authorizing the cervical facet rhizotomy, as well as a denial on 08/11/05 for the cervical facet rhizotomy. On 09/16/05, Dr. Willis addressed a letter "To Whom It May Concern". It was noted he was status post cervical facet injections back in March of 2004, which decreased his pain approximately 60-70% for almost a year. Dr. Willis felt it was medically necessary and warranted to repeat the cervical rhizotomy and allow the patient to improve his function and decrease his suffering, as well as allowing him to take less medication.

Disputed Services:

A cervical facet rhizotomy

Decision:

I disagree with the requestor. The cervical facet rhizotomy would be neither reasonable nor necessary.

Rationale/Basis for Decision:

Facet rhizotomy would be indicated when all of the following are met. The patient has experienced severe pain limiting activities of daily living for at least six months, neuroradiology studies are negative and failed to confirm disc herniation, the patient had no significant

M2-06-0109-01

Page Five

narrowing of the vertebral canal requiring surgery, the patient had no spinal instability requiring surgery, and the patient has tried and failed conservative treatments. A trial of facet injections has to be successful in relieving pain of 50% or more. A facet rhizotomy could not be performed within six months of a prior facet rhizotomy.

This patient falls into most of those categories. However, there was no scientific evidence that facet rhizotomy would be effective in a postsurgical patient. This patient appeared to have a nonunion of his cervical spine. While he may have had success in the past with the facet rhizotomy, there was no indication that he would have facets in the future. In my opinion, in this case, the proposed cervical facet rhizotomy would be neither reasonable nor necessary as related to the original injury.

The rationale for the opinions stated in this report are based on clinical experience and standards of care in the area as well as broadly accepted literature which includes numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

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:

M2-06-0109-01

Page Six

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 11/11/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel