



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-0120-01
NAME OF REQUESTOR: Texas Health
NAME OF PROVIDER: Robert Bedford, D.C.
REVIEWED BY: Board Certified in Pain Management
Board Certified in Anesthesiology
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 11/09/05

Dear Texas Health:

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 Pain Management and Anesthesiology 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 the provider, the injured employee, the injured 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:

Telephone calls from the claimant dated 10/22/03 and 11/24/03
Evaluations with R.W. Jones, M.D. on 11/19/03, 12/03/03, 12/18/03, 12/19/03, and 02/02/04
An evaluation with an unknown provider (no name or signature available) dated 12/05/03
An MRI of the right knee interpreted by Dana Fuller, M.D. dated 12/10/03
Chiropractic treatment with an unknown chiropractor (the signature was illegible) on 12/15/03, 01/12/04, 02/18/04, 03/19/04, 04/14/04, 05/17/04, and 06/21/04
Evaluations with Benjamin J. Cunningham, M.D. on 01/14/04, 08/04/04, 09/21/04, 10/19/04, 11/24/04, 01/18/05, 05/03/05, 05/24/05, and 06/16/05
An evaluation with James B. Montgomery, M.D. dated 01/29/04
TWCC-73 forms filed by Angela Upchurch, D.C. dated 03/15/04, 07/06/04, 07/27/04, 08/10/04, and 03/14/05
Physical Performance Evaluations (PPEs) with Lawrence Elwell, D.C. dated 04/22/04, 06/01/04, and 07/07/04
Designated Doctor Evaluations with Raul Zayas, M.D. dated 05/26/04 and 03/22/05
An evaluation with Raphael Emanuel, M.D. dated 06/02/04
Chiropractic treatment with Dr. Upchurch dated 07/19/04 and 10/12/04
Evaluations with Dr. Upchurch dated 09/07/04, 12/07/04, 01/24/05, and 02/08/05
An operative report from Dr. Cunningham dated 09/13/04
Evaluations with Don C. Dunlap, D.O. dated 10/04/04, 10/18/04, 11/15/04, and 12/08/04
A letter written by Dr. Upchurch dated 10/07/04
A PPE with Michael Arriens, D.C. dated 10/11/04
A behavioral medicine consultation with Erica Penick, M.A., L.P.C.-I. and Phil Bohart, C.R.C., L.P.C. dated 10/15/04
Individual psychotherapy with Ms. Penick on 11/08/04, 11/15/04, 11/22/04, 12/01/04, 12/17/04, 12/28/04, and 01/04/05
Biofeedback with J.D. Massingill, M.S., L.P.C. dated 11/08/04, 11/15/04, 11/22/04, 12/06/04, and 12/28/04

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Evaluations with John Botefuhr, D.C. dated 11/12/04, 01/05/05, 01/14/05, 01/21/05, 01/31/05, 04/19/05, 05/02/05, 05/18/05, 06/13/05, 06/30/05, 08/01/05, 08/23/05, and 09/23/05

Evaluations with Charles E. Willis, II, M.D. dated 12/22/04 and 04/06/05

Evaluations with Miguel B. Banta, Jr., M.D. dated 01/24/05, 04/20/05, 05/04/05, and 08/03/05

Evaluations with Robert L. Bedford, D.C. dated 02/21/05, 02/28/05, 04/25/05, and 07/11/05

A case conference note from Ms. Penick dated 03/02/05

Unknown treatment with Dr. Bedford dated 03/02/05, 03/03/05, 03/14/05, 03/15/05, 03/17/05, 03/21/05, 03/24/05, 03/25/05, 03/30/05, 04/06/05, 04/07/05, 04/08/05, 04/11/05, 04/12/05, 04/13/05, and 04/18/05

A Functional Capacity Evaluation (FCE) with Dr. Botefuhr dated 04/04/05

A case conference note with Jeanne C. Selby, Ph.D. dated 04/06/05

A chronic pain management interdisciplinary plan and goals of treatment form from Ms. Selby, Mr. Bohart, Dr. Willis, Tracey Duran, M.S., L.P.C., and Tresha Hester, O.T.R. dated 04/06/05

A TWCC-73 form filed by Dr. Botefuhr dated 04/23/05

A physical therapy reevaluation and treatment plan with Mark Dodson, P.T. dated 06/27/05

A request for continued chronic pain management from Mr. Bohart on 06/29/05 and from Ms. Duran dated 07/12/05

Letters of denial from First Health dated 07/06/05, 07/15/05, and 07/29/05

A requestor's position regarding preauthorization letter from Nicole Mangum, Ph.D. and Dr. Selby dated 08/05/05

Letters from Flahive, Ogden & Latson Attorneys at Law dated 10/07/05 and 10/19/05

Clinical History Summarized:

On 11/19/03, Dr. Jones recommended Vioxx, therapeutic activities, and a Neoprene knee brace. On 12/03/03, Dr. Jones took the claimant off work and recommended an MRI of the knee and Vicodin. An MRI of the right knee interpreted by Dr. Fuller on 12/10/03 revealed a tear of the posterior horn of the medial meniscus, mild fluid in the popliteal bursa, and small areas of chondromalacia patella. Chiropractic treatment was performed with an unknown provider from 12/15/03 through 06/21/04 for a total of seven sessions. On 05/26/04, Dr. Zayas felt the claimant was not at Maximum Medical Improvement (MMI). A right knee arthroscopy and debridement was performed by Dr. Cunningham on 09/13/04. Individual therapy and biofeedback were recommended once a week for at least six weeks by Ms. Penick and Mr. Bohart on 10/15/04. On 10/19/04, Dr. Cunningham aspirated and injected the right knee. Individual therapy was performed with Ms. Penick from 11/08/04 through 01/04/05 for a total of seven sessions. Biofeedback with Dr. Massingill occurred from 11/08/04 through 12/28/04 for a total of five sessions. On 03/23/05, Dr. Zayas placed the claimant at MMI with a 4% whole person impairment rating. An FCE with Dr. Botefuhr on 04/04/05 showed the claimant could work in

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the sedentary level. A work hardening program was recommended. On 04/06/05, Dr. Selby recommended an anti-depressant. Twenty sessions of the pain management program were requested by Dr. Willis, Dr. Selby, Mr. Bohart, and Ms. Duran on 04/06/05. On 04/19/05, Dr. Botefuhr agreed with the recommendation for the pain management program. Dr. Banta performed a right knee steroid injection on 04/20/05. On 05/03/05, Dr. Cunningham recommended an MR arthrogram of the knee. On 05/24/05, Dr. Cunningham stated the knee was being denied. On 06/27/05, Mr. Dodson felt continuing the pain management program for 10 more days was reasonable. Mr. Bohart also provided a continuation request for 10 more days of the program on 06/29/05. A letter from First Health on 07/06/05 and 07/15/05 denied 10 more sessions of the pain management program. Ms. Duran provided another continuation request letter for the 10 sessions on 07/12/05. On 07/29/05, Pam Nowakowski, R.N. from First Health wrote a letter to Mr. Bohart explaining why they denied the further treatment. Dr. Mangum and Dr. Selby provided a request for a medical dispute resolution (MDR) on 08/05/05. On 10/07/05, S. Rhett Robinson of Flahive, Ogden and Latson Attorneys at Law provided a letter in response to the request for the MDR stating that a Contested Case Hearing (CCH) had been requested. Charles C. Finch from the same office wrote a letter to Professional Associates on 10/19/05 stating the carrier maintained its original position as outlined in the letter dated 10/07/05.

Disputed Services:

Ten additional sessions of a chronic pain management program

Decision:

I disagree with the requestor. The additional 10 sessions of the chronic pain management program would be neither reasonable nor necessary.

Rationale/Basis for Decision:

This claimant is not currently, nor has she ever been, an appropriate candidate for a chronic pain management program, in my opinion. At the time she began the chronic pain management program, there was clear evidence of residual and/or recurrent pathology involving her right knee that required further medical attention. A chronic pain management program would not be medically reasonable, necessary, or appropriate unless all appropriate medical treatment options have been explored and exhausted. In this case, medical treatment options clearly were not exhausted regarding the MRI evidence of recurrent and/or residual pathology in the right knee despite the arthroscopic surgery that had been performed. Moreover, at the time prior to entry to the chronic pain management program, this claimant had already failed to gain significant

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clinical improvement from at least 184 physical therapy sessions from December of 2003 through May of 2005, as well as eight individual psychotherapy sessions. A claimant who demonstrates no significant improvement despite extensive and, in my opinion, excessive amounts of physical therapy, as well as individual psychotherapy would not be expected to gain any significant benefit from her chronic pain management program, which was essentially a repetition of the physical therapy and individual psychotherapy treatment that had been demonstrated as failures in this case. Gaining no benefit from individual psychotherapy and physical therapy, there was no logical reason to assume that the claimant would gain benefit from those same modalities combined under the heading of a different treatment regimen, in this case, a chronic pain management program. Finally, the claimant has completed 20 sessions of the chronic pain management program with little to no significant clinical benefit documented. There was no reason to expect that the claimant would gain any greater degree of benefit from an additional 10 sessions of the program based upon the minimal to no progress made thus far. In an excellent review of clinical practice guidelines, for chronic nonmalignant pain syndrome patients, *The Journal of Back and Musculoskeletal Rehabilitation*, demonstrated in 1999, there was no greater benefit from a chronic pain management program of greater than 20 sessions as compared to a chronic pain management program of 20 sessions. The article states, "regardless of the number of hours per day or days per week the claimant is seen, research studies continue to show that effective outcome from such interdisciplinary treatment is accomplishable within a maximum of 20 treatment days. Thus, this 20 treatment day upper limit with definitive intervention with chronic pain syndrome patients is recommended." This claimant demonstrated no extraordinary circumstances in her clinical presentation that would justify an extension of the chronic pain management program beyond the 20 sessions that have already been completed. Therefore, based upon all of the reasons cited above, there was no medical reason or necessity for any additional sessions of a chronic pain management program as related to this claimant's 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.

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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 claimant via facsimile or U.S. Postal Service this day of 11/09/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel