November 16, 2005

TX DEPT OF INS DIV OF WC
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M2-06-0260-01
CLIENT TRACKING NUMBER: M2-06-0260-01 5278

Amended Review 11/22/05:
Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIoA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA 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. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest between that provider and 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 IRO.

Records Received:
RECORDS RECEIVED FROM THE STATE:
Notification of IRO Assignment dated 11/3/05, 15 pages
Reconsideration Request from South Coast Spine & Rehab dated 9/9/05, 6 pages

RECORDS RECEIVED FROM THE RESPONDENT (Downs Stanford, PC):
Letter from Downs Stanford, PC dated 11/9/05, 11/10/05, 6 pages
Preauthorization denial letters 8/29/05, 9/16/05, 8 pages
SOAH Decision and Order regarding previous treatment by Dr. Howell dated 4/5/05, 13 pages
Surveillance Reports 5/5/05 - 7/8/05, 7 pages

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TXCOMP Health Care Provider Detail on Robert Howell, DC, Gilbert Meadows, MD, and E. Ray Strong, DC, 14 pages
Letter with summary from Gilbert R. Meadows MD 9/27/05, 20 pages
Summary of patient's previous attempts at chronic pain management program 9/8/03 – 4/30/04
Work Status reports, 10/5/04, 3/2/04, 10/31/02, 12/16/03, 11/5/03, 9/25/03, 9/8/03, 8/12/03, 7/17/03, 1/6/03, 7/9/02, 3/8/02, 12 pages
Letter dated 3/20/02 from Donald Henderson Nowlin MD, 6 pages
Medical records from South Coast Spine & Rehab, 10/5/04, 1 page
Medical records from First Rio Valley Medical PA, 3/2/04, 1/20/04, 12/16/03, 11/5/03, 9/25/03, 9/8/03, 8/12/03, 7/17/03, 2/18/03, 17 pages
Initial Evaluation from First Rio Valley Medical PA, dated 10/31/02, 8 pages
Biofeedback training with Daily Progress Notes & Productivity Index, 3/16/04–5/11/04, 79 pages
FCE dated 2/24/04, 5/7/03, 24 pages
Office note from South Texas Spinal Clinic dated 11/6/03, 9/2/03, 7/23/03, 2/10/03, 8/5/04, 4/21/04, 1/29/04, 9 pages
Office note from Valley Comprehensive, 10/1/03, 8/6/03, 7/16/03, 1/8/03, 1/7/04, 12/10/03, 9 pages
Chest PA dated 7/21/03, 1 page
Labs and ECG, 4 pages
Letter from South Texas Spinal Clinic dated 5/19/03, 1 page
Operative report dated 4/13/00, 2 pages
Spinal Surgery Pre Authorization Request dated 2/18/03, 1 page
Office note from Pisharodi Clinic dated 8/5/02, 2 pages
South Texas Orthopaedic & Spinal Surgery Assoc note dated 7/9/02, 3 pages
Review of Physical History & Examination dated 8/29/01, 3 pages
ARCON AIRS Impairment Rating Report dated 8/29/01, 8 pages
Brownsville PT & Sports Medicine FCE dated 4/30/02, 13 pages
Follow up notes from Valley Comprehensive PA dated 10/12/04, 10/5/04, 8/3/04, 6/22/04, 5/25/04, 4/27/04, 3/30/04, 2/24/04, 13 pages
Psychotherapy 4/13/04, 3/30/04, 3/17/04, 3/12/04, 3 pages
Diagnostic Interview dated 2/17/04, 11 pages
Medical Evaluation from Shorman Solutions dated 9/8/05, 8 pages

Summary of Treatment/Case History:
The claimant is a 35 year old gentleman who allegedly suffered a workplace injury on ___. Subsequently he developed low back pain. He underwent a lumbar laminectomy on 7/31/00 which did not result in resolution of the pain. He has undergone a chronic pain management program under the direction of Robert Howell, DC. This has not apparently been completely successful, since the claimant continues to require pain medication.

Questions for Review:
1. Please review Pre authorization request for 40 sessions of chronic pain management for medical necessity.

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Explanation of Findings:
1. Please review Pre authorization request for 40 sessions of chronic pain management for medical necessity.

The submitted material, including surveillance videotape fails to substantiate the medical necessity for additional intensive pain management program. The video shows a gentleman who appears to function well and without any stigmata of chronic back pain. His movements are natural and fluid, he is able to carry a child who weighs about 25 pounds with ease and bends at the waist to over 120 degrees without apparent difficulty or discomfort. Furthermore, the proposed pain management program is not CARF-accredited and uses methods that are outside the usual regimens employed by most multidisciplinary pain management programs. This deviance from standard medical treatment has been noted by an administrative law judge from the State Office of Administrative Hearings as grounds for disallowing reimbursement for this program in a previous Workers' Compensation case. On the basis of these two factors, an additional 40 sessions of Dr. Howell's pain management program does not appear to be medically necessary.

Conclusion/Decision to Not Certify:
Do not certify the requested 40 hours of pain management program as it does not appear to be medically necessary.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:
The usual selection criteria for a multidisciplinary pain management program are:
1. Referral for entry has been made by the primary care physician/attending physician; and
2. Patient has experienced chronic non-malignant pain (not cancer pain) for 6 months or more; and
3. The cause of the patient's pain is unknown or attributable to a physical cause, i.e., not purely psychogenic in origin; and
4. Patient has failed conventional methods of treatment; and
5. The patient has undergone a mental health evaluation, and any primary psychiatric conditions have been treated, where indicated; and
6. Patient's work or lifestyle has been significantly impaired due to chronic pain; and
7. If a surgical procedure or acute medical treatment is indicated, it has been performed prior to entry into the pain program.

References Used in Support of Decision:
Patrick, L E, et al. (2004). Long-term outcomes in multidisciplinary treatment of chronic low back pain: results of a 13-year follow-up. Spine 29:850-5

Haldorsen, E M, et al. (2002). Is there a right treatment for a particular patient group? Comparison of ordinary treatment, light multidisciplinary treatment, and extensive multidisciplinary treatment for long-term sick-listed employees with musculoskeletal pain. Pain 95:49-63

Guzman, J, et al. (2002). Multidisciplinary bio-psycho-social rehabilitation for chronic low back pain. Cochrane Database Syst Rev CD000963

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Turk, D C (2001). Combining somatic and psychosocial treatment for chronic pain patients: perhaps 1 + 1 does = 3. Clin J Pain 17:281-3

The physician providing this review is board certified in Anesthesiology. The reviewer holds additional certification in Pain Medicine from the American Board of Pain Medicine. The reviewer is a diplomate of the national board of medical examiners. The reviewer has served as a research associate in the department of physics at MIT. The reviewer has received his PhD in Physics from MIT. The reviewer is currently the chief of Anesthesiology at a local hospital and is the co-chairman of Anesthesiology at another area hospital. The reviewer has been in active practice since 1978.

MRIoA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the DWC.

Your Right To Appeal

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.

Chief Clerk of Proceedings / Appeals Clerk
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

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cc: Requestor
Respondent