



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-0344-01
NAME OF REQUESTOR: Brad Burdin, D.C.
NAME OF PROVIDER: Brad Burdin, D.C.
REVIEWED BY: Licensed by the Texas State Board of Chiropractic
Examiners
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 03/03/06

Dear Dr. Burdin:

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.

This case was reviewed by a physician reviewer who is Licensed in the area of Chiropractics 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

M2-06-0344-01

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 George Carrion, M.D. dated 07/18/05, 07/22/05, and 07/29/05
Physical therapy sessions with Alyssa Calveric, P.T. dated 07/18/05 and 07/19/05
Physical therapy sessions with Adrian Cardona, P.T. dated 07/20/05, 07/25/05, 07/27/05, and 07/28/05
Evaluations with Brad Burdin, D.C. dated 08/01/05, 08/09/05, 08/17/05, 09/07/05, 10/03/05, 10/17/05, 11/16/05, and 12/12/05
Physical therapy with Dr. Burdin dated 08/01/05, 08/03/05, 08/05/05, 08/08/05, 08/09/05, 08/12/05, 08/15/05, 09/06/05, 09/15/05, 09/16/05, 09/20/05, 09/22/05, 09/23/05, 09/28/05, 09/30/05, 10/03/05, and 10/05/05
An MRI of the lumbar spine interpreted by Raul A. Pelaez, M.D. dated 08/22/05
A prescription for a lumbar pillow from Dr. Burdin dated 09/06/05
Evaluations with David M. Hirsch, D.O. dated 09/20/05 and 10/26/05
An EMG/NCV study interpreted by Dr. Hirsch dated 09/20/05
A Functional Capacity Evaluation (FCE) with Kipp Clayton, O.T.R. dated 10/12/05
Letters of preauthorization from Dr. Burdin dated 10/21/05, 10/25/05, and 10/28/05
Letters of non-authorization from Argus Services dated 10/26/05 and 10/31/05
A reconsideration request from Dr. Burdin dated 10/26/05
An evaluation with Joseph William Walbert, Jr., P.A.-C. for Dr. Hirsch dated 11/03/05

Clinical History Summarized:

On 07/18/05, Dr. Carrion recommended medication, a Toradol injection, physical therapy, and modified work duty. Physical therapy was performed with Ms. Calveric on 07/18/05 and 07/19/05. Therapy continued with Mr. Cardona from 07/20/05 through 07/28/05 for a total of four sessions. On 07/29/05, Dr. Carrion recommended medications, a home exercise program, and regular work duty. On 08/01/05, Dr. Burdin recommended chiropractic therapy and off work status. Chiropractic therapy was performed with Dr. Burdin from 08/01/05 through 10/05/05 for a total of 17 sessions. An MRI of the lumbar spine interpreted by Dr. Pelaez on

M2-06-0344-01

Page Three

08/22/05 revealed disc desiccation of the nucleus pulposus between L4-L5 and a disc bulge at that level with slight indentation in the thecal sac. The EMG/NCV study interpreted by Dr. Hirsch on 09/20/05 was normal, but an epidural steroid injection (ESI) was recommended. An FCE performed with Mr. Clayton on 10/12/05 revealed the patient would be a good candidate for a work re-entry program. On 10/17/05, Dr. Burdin recommended a four week work hardening program. Argus Services wrote letters of non-authorization for the work hardening program on 10/26/05 and 10/31/05. A lumbar ESI was performed by Dr. Hirsch on 10/26/05. Dr. Burdin continued to recommend the work hardening program on 10/28/05. On 12/12/05, Dr. Burdin felt the patient was at Maximum Medical Improvement (MMI) at that time with a 5% whole person impairment rating.

Disputed Services:

Four weeks of work conditioning

Decision:

I disagree with the requestor. Four weeks of work conditioning would not be considered reasonable or medically necessary.

Rationale/Basis for Decision:

Based upon review of the records, in my opinion, the documentation did not support four weeks of work conditioning as reasonable or medically indicated on or about 10/21/05 or at the present time. The records indicated the patient was injured on ___ and was evaluated at Concentra Medical Center where he was diagnosed with a lumbar strain. He had returned to light work effective immediately and underwent six sessions of outpatient physical therapy. The patient was released to return to regular work effective 08/01/05 and subsequently changed treating doctors. The patient was treated and evaluated at Neuromuscular Institute of Texas and underwent approximately nine sessions of passive physical medicine modalities and procedures, followed by 12 sessions of active rehabilitation consisting of therapeutic exercises. As of 09/07/05, documentation clearly indicated that the patient was reporting overall improvement. An EMG/NCV study performed on 09/20/05 was entirely normal. On 10/12/05, an FCE was performed, which indicated the patient had a subjective pain level of 2/10. There was no significant stress deficits demonstrated and the patient demonstrated the ability to dynamically lift from floor to waist and waist to overhead 60 pounds. He also demonstrated and completed 60 minutes of a 60 minute job simulation that included push/pull activities, shifting and strapping of a wheelchair, and driving simulation. It was noted that there was only a slight elevation in

M2-06-0344-01

Page Four

pain with increased activities. In spite of the patient's ability to perform all of those activities, it was still recommended that he enter a work re-entry program in that he could not tolerate his job duties. The documentation provided did not include a specific job description from the patient's employer setting forth the specific job requirements and physical demand levels. The documentation clearly indicated the patient was continuing to demonstrate improvement in not only his subjective complaints, but in his functional capabilities, as well. It was specifically noted that as of 11/03/05, the records indicate that the patient stated he was 95% better, had no chief complaints, and stated everything was fine. He also noted to the physician that he was completely cured. Physical examination findings as of 11/03/05 were entirely normal. The record of 11/16/05 noted a pain level of 1/10 with no numbness or tingling in the legs. As of 11/16/05, in spite of the fact the patient did not participate in any work conditioning program, it was noted that he was being released from a light duty status to full duty. Finally, the records indicate that as of 12/12/05, the patient was assessed to be at MMI with 5% impairment rating. The recommendation at that time was for the patient not to have any active care, other than a home exercise program.

Although work conditioning is well established within the standard of medical care and peer reviewed literature, it does not appear that the documentation supports that a work conditioning program was medically necessary. It was noted that the Texas Labor Code 408.021 provides that workers' compensation patients are entitled to medical care if that care (1) cures the effects naturally resulting from the compensable injury, (2) relieves the effects naturally resulting from the compensable injury, (3) promotes recovery, (4) enhances the ability of the employee to return to work, or (5) enhances the ability of the employee to retain employment. The documentation clearly establishes that this patient was afforded all reasonable forms of conservative care and responded significantly to therapeutic treatment. He had returned to light work, was continuing to demonstrate improvement, and was assessed at MMI with a 5% impairment. Furthermore, it did not appear the documentation provided substantiated the requirements for an occupational rehabilitation program as set forth in the Carf Medical Rehabilitation Standards Manuel, Section 3.J, Occupational Rehabilitation Programs. The documentation clearly established that a work conditioning program was not reasonable or medically necessary for this employee as of October 2005 nor did it establish any medical necessity for work conditioning program at this time.

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.

M2-06-0344-01

Page Five

This decision by the reviewing physician with Professional Associates is deemed to be a Division 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:

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 03/03/06 from the office of Professional Associates.

Sincerely,

Amanda Grimes
Secretary/General Counsel