



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-0371-01
NAME OF REQUESTOR: _____
NAME OF PROVIDER: Luis Vasquez, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 01/03/06

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

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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:

An Employer's First Report of Injury or Illness dated ____

An emergency room report from Del Sol Medical Center dated 11/02/03

A progress report from Keith Randal Johnson, M.D. at Orthopaedic Surgeon Associates dated 11/04/03

TWCC-73 forms from Dr. Johnson dated 11/04/03, 11/11/03, 12/02/03, 12/23/03, 01/05/04, 01/19/04, 02/09/04, 03/08/04, 03/29/04, 04/26/04, 05/17/04, 06/17/04, 06/30/04, 07/21/04, 08/18/04, 09/15/04, 11/03/04, 12/08/04, 02/16/05, 03/16/05, and 04/27/05

An evaluation with David Rachel, P.T. dated 11/05/03

Physical therapy notes from Border Therapy Services from an unknown provider (the signature was illegible) dated 11/05/03, 11/06/03, 11/07/03, 11/10/03, 11/12/03, 11/13/03, 11/17/03, 11/19/03, 11/21/03, 11/23/03, 11/26/03, 12/01/03, 12/03/03, 12/08/03, 12/10/03, 12/11/03, 12/15/03, 12/17/03, 12/18/03, 12/23/03, 12/24/03, 12/29/03, 12/30/03, and 12/31/03

Physical therapy progress reports from the unknown provider on 11/10/03, 12/01/03, and 12/22/03

Subsequent reports from Dr. Johnson dated 11/11/03, 12/02/03, 12/23/03, 01/05/04, 01/19/04, 02/09/04, 03/08/04, 03/29/04, 04/26/04, 05/17/04, 06/17/04, 08/18/04, 09/15/04, 11/03/04, 12/08/04, 02/15/05, 03/16/05, 04/27/05, and 05/26/05

An MRI of the lumbar spine performed on 12/29/03 and interpreted by Hugo E. Isauni, M.D.

A Payment of Compensation or Notice of Refused/Disputed Claim dated 01/09/04

An operative procedure report dated 02/23/04 from Oscar Vega, Jr., M.D.

An impairment rating report dated 04/21/04 from Louis Zuniga, P.T.

A clinic note dated 05/21/04 from Brett Henderson, M.D. at The El Paso Orthopaedic Surgery Group & Center for Sports Medicine

An MRI of the lumbar spine dated 06/16/04 and interpreted by Marvin Hill, M.D.

Another clinic note from Dr. Henderson dated 06/18/04

An evaluation with Angelo Romagosa, M.D. on 06/28/04

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A TWCC-73 form from Dr. Romagosa dated 06/30/04

An EMG/NCV study of the right upper extremity dated 06/30/04 from Dr. Romagosa

A letter to the Texas Workers' Compensation Commission (TWCC) dated 08/13/04 from Dr. Johnson

A Required Medical Evaluation (RME) with Brian C. Buck, M.D. on 10/27/04

An investigation summary from Veracity Research Company for the dates of 02/07/05, 02/08/05, and 02/09/05

An operative report dated 04/15/05 from Dr. Vega

An evaluation with Luis F. Vasquez, M.D. dated 06/27/05

TWCC-73 forms from Dr. Vasquez dated 06/27/05, 07/29/05, 09/09/05, and 10/20/05

Follow-up evaluations with Dr. Vasquez on 07/29/05, 09/09/05, and 10/20/05

An MRI of the lumbar spine dated 09/07/05 and interpreted by Dr. Isuani

A notice of review determination from UniMed Direct, LLC dated 10/04/05

Additional notices of review determinations from UniMed Direct LLC dated 10/24/05 and 12/05/05

Clinical History Summarized:

The patient was handling and lifting materials on ___ and strained his lower back area. On 11/04/03, Dr. Johnson evaluated the patient and prescribed Vioxx and a Lumbo-Train brace. The patient attended physical therapy from 11/05/03 through 12/31/03 for a total of 24 visits. He received traction, electrical stimulation, ultrasound, and therapeutic exercises. An MRI of the lumbar spine on 12/29/03 revealed a central disc herniation/protrusion at L4-L5 and a central disc herniation/extrusion at the L5-S1 level with moderate central spinal canal stenosis due to disc herniation and congenital short pedicles. On 01/09/04, the carrier denied the patient's injury extended to and included the groin. The patient received an ESI at L5-S1 on 02/23/04 from Dr. Vega. On 03/08/04, the patient was released to full work duty by Dr. Johnson. On 04/21/04, Mr. Zuniga assigned the patient a 5% whole person impairment rating. On 04/26/04, Dr. Johnson reinitiated physical therapy and Vioxx was refilled. Dr. Henderson performed a second opinion on 05/21/04 and the diagnosis was right S1 radiculopathy. Dr. Henderson recommended additional films and a possible L5-S1 discectomy. Another MRI of the lumbar spine was obtained on 06/16/04 and showed a right sided disc extrusion at L5-S1 displacing the right S1 root. There was also a broad based bulge and moderate changes of degenerative disc disease at L4-L5 with an annular fissure identified posteriorly at the L4-L5 level. On 06/17/04, Dr. Johnson agreed with the recommendation for surgery. Dr. Romagosa performed an EMG/NCV study of the right upper extremity, which demonstrated a chronic S1 radiculopathy

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on the right. Dr. Johnson wrote a letter to the TWCC on 08/13/04 and stated there was no doubt in his mind that despite the patient's degenerative disc disease, the injury was caused on ___ and was essentially exacerbated in the process of trying to get better. In an RME on 10/27/04, Dr. Buck felt the findings seen on the patient's MRIS were compatible with the injury on ___. Another ESI at L5-S1 was performed by Dr. Vega on 04/15/05. On 06/27/05, Dr. Vasquez recommended a two level fusion at L4-L5 and L5-S1. Another MRI was performed on 09/07/05 and showed a central disc herniation/protrusion at L4-L5 and facet arthropathy/congenital spinal canal stenosis due to short pedicles. There was a central disc herniation/protrusion at L5-S1 with facet arthropathy at the lateral recess and bilateral neural foraminal stenosis with deformity of the right S1 nerve root, which appeared enlarged and the epidural space was obliterated. Dr. Vasquez again recommended the two level fusion on 09/09/05. UniMed Direct, LLC provided an adverse determination on 10/04/05 for the proposed surgery. On 10/24/05 and 12/05/05, UniMed Direct, LLC provided additional adverse determinations for the bilateral lumbar laminectomy and discectomy with fusion at L4-L5 and L5-S1.

Disputed Services:

Bilateral lumbar laminectomy and discectomy with fusion at L4-L5 and L5-S1

Decision:

I disagree with the requestor. The bilateral lumbar laminectomy and discectomy with fusion at L4-L5 and L5-S1 would be neither reasonable nor necessary.

Rationale/Basis for Decision:

In my opinion, a discectomy, combined with a posterolateral fusion would be the absolutely worst type of procedure that could be performed for this patient. His primary complaints have been radicular. Any competent surgeon could perform a decompression, no matter the size of the disc herniation and not destabilize the patient. This could be done with microsurgical techniques. The facet needs not to be disrupted. If there were consideration of the fusion, if there were instability demonstrated (it has not been demonstrated at this time, and then an anterior interbody fusion would be performed. This could be performed either through a transforaminal approach for a posterior lumbar interbody approach or an anterior approach, but

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those are not the procedure that had been recommended by the treating physician. Clearly, at this time, there was no indication for fusion. Clearly, if a fusion were indicated, it would not be this procedure.

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 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.

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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 01/03/06 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel