



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-0392-01
NAME OF REQUESTOR: Ryan N. Potter, M.D.
NAME OF PROVIDER: Ryan N. Potter, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 12/14/05

Dear Dr. Potter:

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:

X-rays of the thoracic spine, lumbar spine, left hip, right hip, left knee, and right knee performed on 12/27/04 and interpreted by Brendan D. O'Connor, M.D.

A physical therapy prescription dated 12/27/04 and signed by Arthur Chin, M.D.

Evaluations with Dr. Chin on 12/27/04 and 01/03/05

A physical therapy evaluation dated 01/03/05 and signed by Claudia Bullard, P.T.

Physical therapy with Ms. Bullard on 01/03/05, 01/04/05, 01/05/05, 01/06/05, 01/10/05, 01/11/05, 01/12/05, 01/18/05, 01/19/05, 01/20/05, 01/24/05, 01/25/05, 01/27/05, 02/07/05, and 02/09/05

Additional evaluations with Dr. Chin dated 01/17/05, 01/31/05, 02/14/05, 04/18/05, 05/18/05, 06/13/05, 07/13/05, 08/12/05, 09/13/05, and 10/13/05

An MRI of the lumbar spine dated 01/20/05 and interpreted by Jen-Yi Huang, M.D.

A physical therapy progress report from MS. Bullard dated 01/27/05

An initial evaluation with Ryan N. Potter, M.D. dated 05/10/05

A letter "To Whom It May Concern" dated 05/11/05 from Dr. Potter

A letter of authorization from Forte dated 06/01/05

A procedure note for trigger point injections from Dr. Potter dated 06/13/05

Additional evaluations with Dr. Potter dated 06/21/05 and 08/23/05

A notice of non-authorization from Forte dated 06/07/05

A notice of authorization from Forte dated 07/05/05

A procedure note from Dr. Potter dated 08/08/05

A preauthorization request from Dr. Dr. Potter dated 08/30/05

A preauthorization review by Thomas Padgett, M.D. dated 09/02/05

A notice of an adverse determination dated 09/02/05 from Forte

Another letter "To Whom It May Concern" dated 09/06/05 from Dr. Potter

A notice of utilization review findings from Forte dated 09/06/05

Another preauthorization form from Dr. Potter dated 09/07/05

Another notice of utilization review findings from Forte dated 09/12/05

An additional notice of utilization review findings from Forte dated 09/13/05

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An additional letter "To Whom It May Concern" from Dr. Potter dated 09/19/05

An Exhibit titled Rebuttal to Discography Denial Memo with an unknown date from Dennis Karasek, M.D.

Clinical History Summarized:

X-rays of the thoracic spine, lumbar spine, right hip, left hip, left knee, and right knee were normal on 12/27/04. On 12/27/04, the patient informed Dr. Chin she was loading a mail bucket into a van and the weight of the bucket brought her down. She fell over the curb. Lortab was prescribed. The patient attended therapy from 01/03/05 through 02/09/05 with Ms. Bullard. She received therapeutic exercises, ultrasound, and electrical stimulation. An MRI of the lumbar spine on 01/20/05 was normal. On 05/10/05, Dr. Potter initially evaluated the patient. The impressions were back pain NOS, lumbar pain NOS, lumbar myofascial pain syndrome, and possible occult lumbar disc annular tear that did not show on the MRI with resultant chemical radiculitis. Trigger point injections were recommended and Darvocet, Zanaflex, Wellbutrin-SR, and Ibuprofen were prescribed. The patient received the thoracolumbar paraspinal muscles and bilaterally upper buttocks trigger point injections from Dr. Potter on 06/13/05. On 06/21/05, the patient had continued pain and Dr. Potter recommended an epidural steroid injection (ESI) at L5-S1, which was performed on 08/08/05. On 08/23/05, Dr. Potter recommended a three level provocative lumbar discogram at L3-L4, L4-L5, and L5-S1. On 09/02/05, the lumbar discogram was not authorized by Forte, as it was felt to be unreliable as a study to predict the source of pain in workers' compensation cases. Dr. Potter wrote a letter of reconsideration for the discogram on 09/06/05. On 09/06/05, Forte again denied the lumbar discogram. Dr. Potter provided a preauthorization request on 09/07/05 for the lumbar discogram, which Forte again denied on 09/12/05 and 09/13/05. Dr. Potter addressed another letter "To Whom It May Concern" on 09/19/05 for the purpose of a Medical Dispute Resolution (MDR).

Disputed Services:

A provocative discogram at L3-L4, L4-L4, and L5-S1 with a post discogram CT scan

Decision:

I disagree with the requester. The provocative discogram at L3-L4, L4-L5, and L5-S1 with a post discogram CT scan would be neither reasonable nor necessary.

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Rationale/Basis for Decision:

The provocative discogram at L3-L4, L4-L5, and L5-S1 with a post discogram CT scan is not reasonable or necessary. There is very good information in the scientific literature that a discogram should only be performed to evaluate an abnormal level on an MRI. Abnormal discography in the face of a normal MRI, as in this case, would not be a reasonable procedure. Discography should never be utilized unless there was a clear surgical indication and there was no indication for surgery or any invasive treatment in this patient. In patients where discography showed an “occult annular tear”, there was no good surgical procedure to perform. Therefore, the discography should not be allowed.

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:

Chief Clerk of Proceedings/Appeals Clerk
TDI-Division of Workers' Compensation
P. O. Box 17787
Austin, TX 78744

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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 12/14/05 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel