



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-0683-01
NAME OF REQUESTOR: Ryan Potter, M.D.
NAME OF PROVIDER: Ryan Potter, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 02/28/06

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:

A physical therapy evaluation with Mary E. Stevens, P.T. dated 05/12/00
Physical therapy with Ms. Stevens on 05/12/00, 05/15/00, 05/17/00, and 05/19/00
Evaluations with Donald Gwartney, D.C. dated 07/06/04 and 07/20/04
X-rays of the lumbosacral spine interpreted by Carlos R. Gutierrez, M.D. dated 07/12/04
A TWCC-69 form from Dr. Gwartney dated 07/30/04
A Designated Doctor Evaluation from Kenneth Copeland, D.C. dated 10/29/04
An MRI of the lumbar spine interpreted by an unknown provider (no name or signature was available) dated 11/11/04
An impairment rating review with Charles W. Kennedy, Jr., M.D. dated 02/14/05
Physical therapy with an unknown therapist (no name or signature was provided) dated 03/01/05, 03/16/05, 03/21/05, 03/28/05, 03/30/05, and 06/22/05
Evaluations with Ryan N. Potter, M.D. dated 03/10/05, 03/22/05, 04/11/05, 11/08/05, and 11/14/05
A Notice of Disputed Issue(s) and Refusal To Pay Benefits form from Gallagher Bassett Services, Inc. dated 03/11/05
A Required Medical Evaluation (RME) with Michael D. LeCompte, D.O. dated 08/24/05
An operative note from Dr. Potter dated 10/27/05
Requests for preauthorization from Dr. Gwartney dated 11/10/05 and 12/05/05
A letter of reconsideration from Dr. Potter dated 11/15/05
A letter of denial from Tammy Wade, Utilization Review Nurse dated 11/15/05
A letter of Medical Dispute Resolution (MDR) from Dr. Potter dated 12/13/05
A letter of denial from Glenn Babus, D.O. dated 12/13/05

Clinical History Summarized:

Physical therapy was performed with Ms. Stevens four times between 05/12/00 and 05/19/00. On 07/06/04, Dr. Gwartney recommended chiropractic therapy, lumbar x-rays, and modified work duty. On 07/20/04, Dr. Gwartney recommended continued chiropractic therapy and full

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work duty. Dr. Gwartney placed the patient at Maximum Medical Improvement (MMI) as of 07/30/04 with a 5% whole person impairment rating. On 10/29/04, Dr. Copeland agreed with the date of MMI and impairment rating. A lumbar MRI interpreted by an unknown provider on 11/11/04 revealed a disc protrusion at L3-L4 with associated facet hypertrophy and extradural defect. There was also mild diffuse annular bulging at L4-L5 and mild bilateral facet hypertrophy at L4-L5 and L5-S1. On 02/14/05, Dr. Kennedy recommended a trial of epidural steroid injections (ESIs), Glucosamine Chondroitin, an anti-inflammatory, and an active exercise program. He also felt the patient was not at MMI. Physical therapy was performed with an unknown provider from 03/01/05 through 06/22/05 for a total of six sessions. On 08/24/05, Dr. LeCompte recommended weaning from narcotic medications, a home exercise program, and the lumbar ESIs. Dr. Potter performed a left L3 through S1 medial branch block on 10/27/05. On 11/08/05, Dr. Potter recommended a lumbar discogram CT scan. On 11/15/05, Dr. Potter wrote a letter of reconsideration for the discogram CT scan. Ms. Wade wrote a letter of denial for the discogram CT scan on 11/15/05. On 12/13/05, Dr. Potter wrote a letter of medical dispute resolution. Dr. Babus wrote a letter of denial for the discogram CT scan on 12/13/05.

Disputed Services:

A lumbar discogram at L3-L4, L4-L5, and L5-S1 and a post discogram CT scan of the lumbar spine

Decision:

I disagree with the requestor. The lumbar discogram at L3-L4, L4-L5, and L5-S1 with a post discogram of the lumbar spine would be neither reasonable nor necessary.

Rationale/Basis for Decision:

Discography is not indicated at this time in this patient. While the patient does have some residual lower back pain, he has been functioning well and back at work. He has received appropriate treatment. There was no surgical procedure at this time that was being considered. A discogram has very limited utility. It should be used only when there was a question as to whether a surgical procedure would be appropriate, i.e., multilevel fusion. Dr. Potter is not a spine surgeon. The reasons for an "isolating the pain generator" are not clear. At this time, the discogram is neither reasonable nor necessary, as it will not change the patient's clinical syndrome.

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Screening criteria in making this decision included *The North American Spine Society Clinical Guidelines* for treating clinical lower back pain. The utility of discography was limited to indications where the patient was psychologically normal, all types of treatment have failed, and there was some question as to the direction of future treatment. That is not true at this time and, therefore, I do not feel that the discogram is necessary.

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 02/28/06 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel