



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-0918-01
NAME OF REQUESTOR: RS Medical
NAME OF PROVIDER: Kenneth Alo', M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 04/27/06

Dear RS Medical:

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 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 Decision and Order letter from James W. Norman dated 01/16/01

A letter regarding a Medical Dispute Resolution (MDR) dated 10/30/02

A notice of Independent Review Determination from Michael S. Lifshen, M.D. dated 09/15/03

Notices of Independent Review Determination from Gordon Strom, Jr., M.D. dated 10/15/03 and 10/22/03

A notice of Independent Review Determination from Forte dated 10/22/03

Evaluations with Kenneth Alo', M.D. dated 06/09/04, 03/22/05, 04/27/05, 06/08/05, 07/11/05, 08/17/05, and 09/28/05

An evaluation with Anthony Young, M.D. dated 12/13/04 and 12/20/04

X-rays of the lumbar spine interpreted by M. Cristina Payan, M.D. dated 12/13/04 and 09/27/05

Evaluations with Thomas J. Cartwright, M.D. dated 01/06/05, 01/27/05, and 02/24/05

A physical therapy evaluation with Rick Alcera, P.T. dated 01/07/05

Physical therapy with Andy Gromek, P.T.A. and Mr. Alcera dated 01/11/05, 01/13/05, 01/14/05, 01/17/05, 01/21/05, and 01/26/05

Operative reports from Dr. Alo' dated 02/14/05, 03/14/05, and 06/30/05

An evaluation with Donald L. Kramer, M.D. dated 02/25/05

A prescription for an RS Medical stimulator from Dr. Alo' dated 03/29/05 and 05/25/05

An RS Medical patient usage report for the dates of 03/29/05, 03/30/05, 03/31/05, 04/01/05, 04/02/05, 04/03/05, 04/04/05, 04/05/05, 04/07/05, 04/08/05, 04/11/05, 04/12/05, 04/14/05, 04/15/05, 04/16/05, 04/18/05, 04/20/05, 04/21/05, 04/22/05, 04/23/05, 04/25/05, 04/26/05, 04/27/05, 04/28/05, 04/30/05, 05/03/05, 05/04/05, 05/05/05, 05/11/05, 05/12/05, 05/13/05, 05/16/05, 05/17/05, 05/19/05, 05/20/05, 05/22/05, 05/24/05, 05/27/05, 05/31/05, 06/01/05, 06/02/05, 06/03/05, 06/04/05, 06/06/05, 06/09/05, 06/10/05, 06/13/05, 06/15/05, 06/16/05, 06/17/05, 06/20/05, 06/22/05, 06/23/05, 06/29/05, 07/01/05, 07/02/05, 07/05/05, 07/06/05, 07/07/05, 07/09/05, 07/10/05, 07/11/05, and 07/12/05

An EMG/NCV study interpreted by Kirk Mauro, M.D. dated 04/14/05

A letter of medical necessity written by Dr. Alo' dated 05/18/05

Letters of adverse determination from Concentra dated 06/03/05 and 06/17/05

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An MRI of the lumbar spine interpreted by Dr. Payan dated 09/27/05

A Designated Doctor Evaluation with Anil T. Bangale, M.D. dated 03/24/06

A response to an IRO records request from Shelley D. Gatlin at Stone Loughlin & Swanson, L.L.P. dated 04/07/06

Clinical History Summarized:

On 01/16/01, Mr. Norman wrote a letter of denial for preauthorization of a BMR NT-2000 neuromuscular stimulator unit. On 10/30/02, an MDR was provided indicating an RS medical stimulator unit was not medically necessary. On 09/15/03, Dr. Lifshen recommended upholding the denial of the stimulator unit. On 10/15/03 and 10/22/03, Dr. Strom also felt the stimulator unit was not medically reasonable. Forte also wrote a letter of denial for the stimulator unit on 10/22/03. On 06/09/04, Dr. Alo' recommended a pain management program. On 12/13/04, Dr. Young prescribed Naprosyn and Flexeril. On 01/06/05, Dr. Cartwright recommended physical therapy, Voltaren, and a lumbar epidural steroid injection (ESI). Physical therapy was performed with Mr. Gromek and Mr. Alcera from 01/11/05 through 01/26/05 for a total of six sessions. Dr. Alo' performed lumbar ESIs on 02/14/05, 03/14/05, and 06/30/05. On 03/29/05, Dr. Alo' prescribed an RS Medical stimulator unit. RS Medical usage notes were provided for the dates of 03/29/05 through 07/12/05 for a total of 63 days. An EMG/NCV study interpreted by Dr. Mauro on 04/14/05 revealed bilateral entrapment proximal to the fibula head and bilateral compression. On 05/18/05, Dr. Alo' wrote a letter of medical necessity for continued use of the RS Medical stimulator unit. On 06/03/05 and 06/17/05, Concentra wrote letters of denial for the muscle stimulator unit. X-rays of the lumbar spine interpreted by Dr. Payan on 09/27/05 revealed spondylosis at L5-S1 and osteoarthritis of the lower lumbar spine. An MRI of the lumbar spine interpreted by Dr. Payan on 09/27/05 revealed disc pathology at L4-L5 and L5-S1 with impingement on the L5 and S1 nerve roots, disc pathology at L2-L3 and L3-L4 that would only be significant with L3 or L4 radiculopathy, and congenital stenosis from L3 through L5. Dr. Bangale placed the patient at Maximum Medical Improvement (MMI) as of 03/24/06 with a 0% whole person impairment rating. On 04/07/06, Ms. Gatlin wrote a letter stating the denial for the stimulator unit would be upheld.

Disputed Services:

Purchase of an RS4i muscle stimulator

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Decision:

I disagree with the requestor. The purchase of an RS4i muscle stimulator would be neither reasonable nor necessary.

Rationale/Basis for Decision:

There was no scientific evidence that a muscle stimulator would be reasonable and necessary for this patient's non-specific complaints. Review of the medical literature did not show any high quality peer review study that indicates any beneficial effect or any effect above placebo. The last study, by Glaser et. al. in *The Journal of Pain*, in 2001 was a study that had a large drop out rate and was not profoundly significant despite the claims of its authors. *The Occupational Medicine Practice Guidelines*, Second Edition, state further treatment of acute or chronic lower back pain be passive therapies produced by the muscle stimulator are not medically reasonable and scientifically valid. Therefore, for a multitude of reasons, I do not believe the proposed purchase of the muscle stimulator was reasonable or necessary as related to the original injury.

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

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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 04/27/06 from the office of Professional Associates.

Sincerely,

Amanda Grimes
Secretary/General Counsel