



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-1110-01
NAME OF REQUESTOR: Kenneth Berliner, M.D.
NAME OF PROVIDER: Kenneth Berliner, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO.: IRO 5288
DATE OF REPORT: 05/17/06

Dear Dr. Kenneth Berliner:

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:

Evaluations with Richard A. Evans, M.D. dated 04/28/05, 05/13/05, and 06/13/05

Physical therapy notes with Brenda Clayton (no credentials were listed) dated 04/28/05, 05/02/05, 05/04/05, 05/06/05, 05/09/05, 05/11/05, 05/13/05, 05/16/05, 05/18/05, 05/23/05, 05/25/05, 05/27/05, 06/06/05, 06/08/05, 06/13/05, 06/15/05, 06/17/05, 06/20/05, 06/22/05, 06/24/05, 06/27/05, 06/29/05, 07/01/05, 07/06/05, 07/11/05, 07/13/05, 07/18/05, 07/20/05, 07/22/05, 07/27/05, 07/29/05, 08/01/05, and 08/03/05

Evaluations with Michael L. Eisemann, M.D. dated 05/16/05, 06/13/05, 07/07/05, and 08/25/05

A CT scan interpreted by Dr. Eisemann dated 06/30/05

A Designated Doctor Evaluation with Sheriff Ilo, D.C. dated 07/14/05

A notice of Maximum Medical Improvement (MMI)/First Impairment benefit payment from ESIS dated 07/25/05

Computerized Muscle Testing (CMT) and range of motion tests dated 08/10/05

Evaluations with Kenneth G. Berliner, M.D. dated 08/10/05, 09/14/05, and 03/16/06

Physical therapy evaluations with R. Jenez, P.T. dated 08/11/05, 09/12/05, 10/11/05, 01/09/06, and 02/09/06

Physical therapy with therapist Jenez dated 08/11/05, 08/12/05, 08/15/05, 08/16/05, 08/18/05, 08/22/05, 08/23/05, 08/25/05, 08/29/05, 08/30/05, 09/01/05, 09/06/05, 09/09/05, 09/12/05, 09/13/05, 09/15/05, 09/19/05, 09/20/05, 09/26/05, 09/29/05, 10/03/05, 10/04/05, 10/07/05, 10/10/05, 10/11/05, 10/13/05, 10/17/05, 10/20/05, 10/21/05, 10/24/05, 10/25/05, 10/27/05, 01/09/06, 01/10/06, 01/12/06, 01/16/06, 01/17/06, 01/23/06, 01/30/06, 01/31/06, 02/02/06, 02/06/06, 02/07/06, 02/09/06, 02/13/06, 02/14/06, 02/16/06, 02/20/06, 02/22/06, 02/23/06, 02/27/06, 03/02/06, 03/06/06, 03/08/06, and 03/09/06

A request for a response to the Designated Doctor's report dated 08/23/05

A response to the Designated Doctor report from Dr. Berliner dated 08/26/05

MRIs of the lumbar and cervical spine interpreted by C. Tom Clayton, M.D. dated 08/31/05

A letter written by Dr. Ilo dated 09/25/05

Evaluations with Sady Ribeiro, M.D. dated 10/06/05, 12/15/05, and 01/24/06

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Letters of denial from Intracorp dated 02/16/06 and 03/01/06
A letter of medical necessity from Dr. Berliner dated 03/06/06

Clinical History Summarized:

On 04/28/05, Dr. Evans recommended Mobic, Celebrex, Vicodin, Robaxin, an ear, nose, and throat evaluation, off work status, and physical therapy. Physical therapy was performed with Ms. Clayton from 04/28/05 through 08/03/05 for a total of 33 sessions. On 05/16/05, Dr. Eisemann recommended an audiogram and tympanogram. On 06/13/05, Dr. Eisemann recommended a CT scan of the temporal bones. The CT scan of the temporal bones performed on 06/30/05 and interpreted by Dr. Eiseman revealed inflammatory changes in the middle ear cavity, mastoid, epitympanum, and paranasal sinuses. Dr. Eisemann recommended a hearing aid evaluation on 07/07/05. On 07/14/05, Dr. Ilo placed the patient at MMI with a 0% whole person impairment rating. On 08/10/05, Dr. Berliner recommended MRIa of the cervical and lumbar spines, a possible additional course of physical therapy, Lorcet, and Flexeril. Physical therapy was performed with Therapist Jenez from 08/11/05 through 03/09/06 for a total of 55 sessions. On 08/25/05, Dr. Eisemann recommended a possible left exploratory tympanotomy. An MRI of the lumbar spine interpreted by Dr. Clayton on 08/31/05 showed a disc herniation at L4-L5 and a disc bulge at L5-S1. A cervical MRI interpreted by Dr. Clayton on 08/31/05 revealed non-osseous pathology only. On 09/25/05, Dr. Ilo wrote a letter upholding his decision of MMI and the impairment rating. Dr. Ribeiro recommended epidural steroid injections (ESIs) on 10/06/05. On 12/15/05, Dr. Ribeiro noted the patient was status post ESIs and recommended continued physical therapy. On 01/24/06, Dr. Ribeiro recommended another ESI. On 02/16/06 and 03/01/06, Intracorp wrote letters of denial for one cervical and lumbar ESI. Dr. Berliner wrote a letter of medical necessity for the lumbar ESIs on 03/06/06.

Disputed Services:

Cervical and lumbar epidural steroid injections

Decision:

I disagree with the requestor and do not feel that cervical and lumbar epidural steroid injections would be reasonable or necessary.

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Rationale/Basis for Decision:

The patient was a 42-year-old gentleman with a history of persistent neck and lower back pain that had become chronic in nature. The patient has had short term success from ESIs in the past; however, the pain had always returned to its baseline. The patient was not a candidate for further invasive treatments. There was no evidence in the scientific literature that repeating ESIs on a chronic basis changes the natural history of back or neck pain. Therefore, the denial would be correct, based on the scientific literature. The criteria used: Texas criteria set out by *The International Spinal Injection Society and Phase III Clinical Guidelines for Multidisciplinary Spinal Care; Lower Back Pain*.

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:

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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 05/17/06 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel