



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-1161-01
NAME OF REQUESTOR: RS Medical
NAME OF PROVIDER: Samuel Alianell, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO.: IRO 5288
DATE OF REPORT: 05/17/06

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

M2-06-1161-01

Page Two

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 R. Trimble, D.O. dated 10/19/01 and 10/23/01

A letter written "To Whom It May Concern" from Ron Ross, M.D. dated 08/03/02

Evaluations with Brian Chimenti, M.D. dated 08/14/02, 09/14/02, 11/02/02, 11/12/02, 11/15/02, 01/17/03, 02/18/03, 07/25/03, 08/12/03, 09/23/03, 10/10/03, and 12/05/03

An Accident/Injury information form dated 08/14/02

X-rays of the right elbow interpreted by Paul Gerson, M.D. dated 08/14/02

An MRI of the right elbow interpreted by Paul Horwitz, M.D. dated 11/06/02

An Employer's First Report of Injury or Illness form dated 05/13/03

An evaluation with Mike Riley, P.A. dated 05/13/03

Physical therapy with Vicky Porter, P.T. dated 05/13/03, 05/14/03, and 05/15/03

Evaluations with Christian Frascino, M.D. dated 05/16/03, 05/22/03, 12/17/03, 02/03/04, 02/13/04, 02/19/04, 02/26/04, 04/06/04, 04/21/04, 05/04/04, 06/09/04, 07/15/04, 08/03/04, 08/11/04, and 08/13/04

An MRI of the lumbar spine interpreted by Viren J. Balsara, M.D. dated 05/16/03

Evaluations with Kevin J. Keyes, D.C. dated 06/09/03, 07/07/03, and 08/04/03

Chiropractic therapy with Dr. Keyes dated 06/10/03, 06/11/03, 06/13/03, 06/16/03, 06/17/03, 06/23/03, 06/25/03, 06/27/03, 06/30/03, 07/02/03, 07/07/03, 07/15/03, 07/17/03, 08/08/03, and 08/12/03

Required Medical Evaluations (RMEs) with Ahmed A. Khalifa, M.D. dated 06/26/03, 11/17/04, and 08/30/05

An evaluation with Shahin Shirzadi, M.D. dated 07/14/03

An operative report with Dr. Chimenti dated 08/04/03

An evaluation with an unknown provider (the signature was illegible) dated 08/15/03

Designated Doctor Evaluations with Joel Nachimson, M.D. dated 08/20/03 and 09/21/05

Operative reports with Jeff Arthur, M.D. dated 10/30/03 and 01/26/04

X-rays of the lumbar spine interpreted by Gayle Storey, M.D. dated 11/18/03

An RME with Aaron L. Combs, M.D. dated 01/05/04

A letter from Jeffrey Sweeney, M.D. dated 01/20/04

M2-06-1161-01

Page Three

A CT scan of the lumbar spine interpreted by Michael E. Knapp, M.D. dated 01/26/04
X-rays of the chest interpreted by Bruce Smith, M.D. dated 02/16/04 and 02/26/04
A second opinion evaluation with Dr. Khalifa dated 02/18/04
A certificate of medical necessity from Dr. Fras dated 02/20/04
An evaluation with Daniel Richard Walker, M.D. dated 02/20/04
Operative reports from Dr. Fras dated 02/20/04 and 03/12/04
An interpretation and report from Charles A. Popeney, D.O. dated 02/20/04
A chest x-ray interpreted by Juan Carlos Pallares, M.D. dated 02/20/04
An abdominal CT scan interpreted by Neal Epstein, M.D. dated 02/21/04
A pathology report from Hazel Awalt, M.D. dated 02/23/04
A discharge summary from Dr. Fras dated 02/24/04
Evaluations with Dr. Sweeney dated 02/27/04, 04/21/04, 07/27/04, 10/01/04, 11/01/04, and 03/24/05
Chest x-rays and an upper abdominal ultrasound interpreted by Dr. Balsara dated 03/01/04
Femoral Hickman line placement with Nitesh Arun Barker, M.D. dated 03/08/04
Nursing notes dated 03/23/04, 03/25/04, 03/30/04, 03/31/04, 04/02/04, 04/06/04, and 04/09/04
An emergency medical services note dated 03/25/04
A discharge summary from Dr. Sweeney dated 03/26/04
PICC line catheter placement with Faraz A. Khan, M.D. dated 03/29/04
An operative report from Dr. Sweeney dated 03/30/04
X-rays of the lumbar spine interpreted by Dr. Smith dated 04/06/04, 04/21/04, 05/04/04, 06/09/04, 07/15/04, and 08/03/04
An MR angiogram of the pelvis interpreted by Dr. Khan dated 04/30/04
A physical therapy evaluation with an unknown therapist (no name or signature was available) dated 05/27/04
A psychological evaluation with Jeanne Southern, M.D. dated 06/04/04
A physical therapy status report from the unknown therapist dated 06/09/04
Follow-up medication progress notes from Dr. Southern dated 06/17/04, 07/01/04, 07/16/04, 07/29/04, 08/12/04, 08/26/04, 09/23/04, 10/07/04, 10/21/04, 11/15/04, 12/02/04, 12/21/04, 01/11/05, 02/07/05, 02/28/05, 03/31/05, 04/28/05, 05/26/05, 06/16/05, 07/01/05, and 07/29/05
A letter from Dr. Fras dated 07/28/04
An EMG/NCV study interpreted by Benny S. Wang, M.D. dated 08/11/04
A prescription for Hydrocodone and Nortriptyline from Dr. Southern dated 08/12/04
An Employer's Request to Change Treating Doctors form dated 08/24/04
An Accident/Injury information form from the patient dated 09/17/04

M2-06-1161-01

Page Four

Evaluations with David W. Strausser, M.D. dated 09/17/04, 11/01/04, 11/19/04, 12/03/04, 02/25/05, 03/02/05, 03/07/05, 03/18/05, 04/15/05, 05/20/05, 07/01/05, 07/29/05, 10/03/05, 11/18/05, and 01/17/06

Refills of Warfarin from Dr. Sweeney dated 09/25/04, 02/10/05, 11/29/05, and 12/27/05

A procedure note with Dr. Southern on 09/27/04

Prescriptions for Lisinopril from Dr. Sweeney dated 09/30/04, 10/29/04, 01/19/05, 03/19/05, 09/02/05, 11/05/05, and 12/10/05

A lumbar myelogram CT scan interpreted by Dr. Gerson dated 10/11/04

An RME with Marvin E. Van Hal, M.D. dated 10/23/04

A comprehensive medical analysis with Beverlee DeBerry, R.N. dated 10/23/04

A lower extremity venous Doppler study interpreted by Kirby B. DeLozier, M.D. dated 11/16/04

A prescription and certificate of medical necessity from Dr. Strausser dated 01/19/05

Laboratory studies dated 01/26/05

An operative report with Dr. Strausser dated 03/02/05

Intraoperative view of the lumbar spine from Dr. Khan dated 03/02/05

An admission report from Dr. Strausser dated 03/02/05

Physical therapy with Ellen Metzger, P.T.A. dated 03/03/05, 03/04/05, and 03/05/05

A discharge summary from Dr. Strausser dated 03/05/05

A prescription for Naproxen from Dr. Southern dated 04/06/05

A request for pain management from Dr. Strausser dated 05/02/05

Prescriptions for Warfarin and Lisinopril from Dr. Sweeney dated 06/03/05, 06/04/05, 09/22/05, and 09/26/05

A venous Doppler ultrasound interpreted by Donald C. Blake, M.D. dated 06/23/05

Psychological evaluations with Glenn J. Bricken, Psy.D. dated 07/15/05, 09/02/05, and 10/05/05

Evaluations with Samuel J. Alianell, M.D. dated 07/25/05, 08/22/05, 09/26/05, 10/10/05, 01/02/06, 01/30/06, and 03/20/06

Individual psychotherapy with Mr. Bricken dated 07/25/05

An impairment rating evaluation with Carl L. Cannon, M.D. dated 08/04/05

A venous Doppler ultrasound interpreted by Phillip Sutton, M.D. dated 08/24/05

A physical therapy evaluation with an unknown therapist (the signature was illegible) dated 08/25/05

Letters from Louis Sabater, L.P.N. at Concentra dated 09/12/05 and 02/10/06

A letter of final judgment from Darlene Byrne, presiding judge dated 09/13/05

A prescription for Hydrocodone from Dr. Alianell dated 09/13/05

Refills of Hydrocodone, Gabapentin, Paxil, Nortriptyline, and Warfarin from Dr. Alianell dated 09/26/05 and 10/25/05

Chronic pain management with unknown providers (the signature was illegible) dated 09/27/05, 09/28/05, 09/29/05, 09/30/05, 10/03/05, 10/04/05, 10/05/05, 10/06/05, 10/10/05, 10/11/05,

M2-06-1161-01

Page Five

10/12/05, 10/13/05, 10/14/05, 10/18/05, 10/19/05, 10/20/05, 10/21/05, 10/24/05, 10/25/05, and 10/26/05

A Request for a Benefits Review Conference (BRC) from M. Chytry dated 10/03/05

A letter from Robin Schneider, L.P.N. at Concentra dated 10/10/05

Medical records review with Dorothy Leong, M.D. dated 10/13/05

A prescription for a medical stimulator unit from Dr. Alianell dated 10/18/05

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

A letter from Dr. Nachimson dated 11/02/05

Refills of Hydrocodone from Dr. Alianell dated 11/11/05, 12/02/05, 12/14/05, and 01/12/06

Refills of Nortriptyline, Paxil, and Gabapentin from Dr. Alianell dated 11/22/05, 11/28/05, and 12/29/05

A letter from Dr. Cannon dated 11/29/05

A letter from Ms. Chytry dated 12/12/05

Letters of medical necessity from Dr. Alianell dated 12/20/05, 01/17/06, and 01/19/06

A letter from John Obermiller, M.D. dated 02/20/06

A peer review from Robert Holladay, IV, M.D. dated 03/08/06

A letter or DWC-60 response and position statement form Deborah A. Womack at the Law Offices of Jeffrey M. Lust dated 04/14/06

Clinical History Summarized:

X-rays of the left elbow interpreted by Dr. Gerson on 08/14/02 were unremarkable. An MRI of the right elbow interpreted by Dr. Horwitz on 11/06/02 revealed lateral epicondylitis, a mild sprain of the radial collateral ligament, and minimal elbow joint effusion. Cortisone injections were again performed by Dr. Chimenti on 11/15/02 and 01/17/03. An MRI of the lumbar spine interpreted by Dr. Balsara on 05/16/03 revealed a small central disc herniation at L4-L5 and a small disc protrusion at L2-L3. Chiropractic therapy was performed with Dr. Keyes from 06/10/03 through 08/12/03 for a total of 15 sessions. On 07/14/03, Dr. Shirzadi felt the patient would not require further treatment. A right lateral epicondylar release was performed by Dr. Chimenti on 08/04/03. On 08/20/03, Dr. Nachimson felt the patient was not at Maximum

M2-06-1161-01

Page Six

Medical Improvement (MMI). Lumbar epidural steroid injections (ESIs) were performed by Dr. Arthur on 10/30/03. On 12/05/03, Dr. Chimenti placed the patient at MMI with a 0% whole person impairment rating. On 01/05/04, Dr. Combs felt the patient's condition was due to a disease of life and that he would not require further care other than a home exercise program. Surgery was recommended by Dr. Fras on 02/03/04 and by Dr. Khalifa on 02/18/04. On 02/20/04, Dr. Fras performed the lumbar surgery. On 03/12/04, Dr. Fras performed irrigation and debridement of the lumbar wound. A PICC line was placed for IV antibiotics by Dr. Khan on 03/29/04. An MRI angiogram with Dr. Khan on 04/30/04 revealed only the surgical hardware in the lumbar spine. Medication management was performed with Dr. Southern from 06/17/04 through 07/29/05 for a total of 21 sessions. The lumbar myelogram CT scan interpreted by Dr. Gerson on 10/11/04 revealed moderately severe compromise of the spinal canal at L3-L4, possible protruding disc material at L5-S1, and surgical changes. On 11/16/04, a lower extremity venous Doppler study interpreted by Dr. DeLozier revealed deep venous thrombosis (DVT) in the common femoral through popliteal vein. Dr. Strausser performed a repeat lumbar surgery on 03/02/05. On 07/15/05, Dr. Bricken recommended individual psychotherapy. On 07/25/05, Dr. Alianell felt the patient was a candidate for the pain management program. Individual therapy was performed with Dr. Bricken on 07/25/05. On 08/04/05, Dr. Cannon placed the patient at MMI with a 25% whole person impairment rating. A lower extremity Doppler study interpreted by Dr. Sutton on 08/24/05 continued to show DVT. On 09/02/05, Dr. Bricken recommended a 20 day chronic pain management program. On 09/12/05, Ms. Sabater of Concentra wrote a letter of approval for 10 days of the pain management program. On 09/21/05, Dr. Nachimson placed the patient at MMI as of 08/04/05 with a 25% whole person impairment rating. Chronic pain management was performed with unknown providers from 09/27/05 through 10/26/05 for a total of 20 sessions. On 10/13/05, Dr. Leong felt the patient should have a 5% whole person impairment rating. The patient used an RS Medical stimulator from 10/19/05 through 03/08/06 for a total of 70 days. On 11/02/05, Dr. Nachimson felt the patient should have a 10% whole person impairment rating. On 11/29/05, Dr. Cannon wrote a letter of rebuttal stating the patient still had a 25% whole person impairment rating. On 02/20/06, Dr. Obermiller wrote a note stating the RS-4I muscle stimulator unit was not necessary for 02/07/06 through 03/31/06. Ms. Womack from Jeffrey M. Lust Law Office wrote a letter stating the purchase of an RS-4I stimulator unit was not medically necessary.

Disputed Services:

Purchase of an RS-41 sequential four channel combination interferential and muscle stimulator

M2-06-1161-01

Page Seven

Decision:

I disagree with the requestor. The purchase of an RS-41 sequential four channel combination interferential and muscle stimulator would be neither reasonable nor necessary.

Rationale/Basis for Decision:

The purchase of such a device would be neither reasonable nor necessary. The patient was a 50-year-old gentleman injured in ___ and has had continued problems despite fusion and hardware removal. There was no scientific information that a muscle stimulator would be useful in any clinical condition other than disuse atrophy. There was absolutely no medical information that suggested it would be useful in clinical pain. The AECOM Guidelines, in Chapter 12, state “physical modalities such as massage, diathermy, cutaneous laser, ultrasound, TENS unit, and biofeedback have no proven efficacy in treating acute lower back symptoms” (Page 300). Scientific literature was even more sparse in the treatment in the utilization of this durable medical equipment (DME) for chronic pain. Therefore, there was no scientific rationale for the purchase of a sequential and inferential muscle stimulator.

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.

M2-06-1161-01

Page Eight

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.

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