



Specialty Independent Review Organization, Inc.

June 30, 2006

DWC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient: ____
DWC #: ____
MDR Tracking #: M2-06-1478-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The TDI-Division of Workers' Compensation has assigned this case to Specialty IRO for independent review in accordance with DWC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Medical Doctor with a specialty in Anesthesia and Pain Management. The reviewer is on the DWC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

According to the medical records, the patient suffered an on the job injury on ____ as she was standing on a ladder. The ladder went off balance causing her to fall and sprain her right ankle and injure her lower back and left lumbar region. She was taken to Methodist Health Care Emergency Room where X Rays were performed that showed "an old L1 fracture", but at that time she was not complaining of pain at that level. She was told to use crutches and put ice on her ankle and to keep it elevated as well as use heat on her back. She was also prescribed Naprelan and Flexeril.

Dr. Baxter saw her on 2-03-04 from the Alamo City Medical group. Dr. Baxter recommended light duty. She was seen again on 02-11-04 and x-rays showed scoliosis, transitional type vertebrae, and bilateral sacralization through anomalous joints and an L2 lumbar vertebra. She was maintained on light duty.

She had a follow-up with Dr. Baxter on 03-03-04 and was feeling better. She was undergoing physical therapy. On 3-8-04 she was complaining of pain radiating down the left leg sometimes to the level of the calf. An Orthopedic evaluation was suggested.

She was referred to Dr. Garcia, an Orthopedic Surgeon, for evaluation. On 10-18-04 she had worsening of symptoms. A bone scan was ordered to rule out pseudoarthrosis at the SI joint.

Dr. David Hirsch evaluated the patient on 4-26-04 who recommended an MRI of the Lumbar Spine. He recommended Zanaflex and performed SI joints and trigger point injections into the left piriformis. He saw the patient again on 10-05-04.

On 3-25-04 Dr. Garcia evaluated her and recommended an injection on the SI joint area. The patient was continued on light duty. She was evaluated by a second Orthopedist, Dr. James Simmons Jr. who also performed her lumbar discectomy at L5-S1 in 1993. She was seen by him on 12-02-04 and he recommended physical therapy, Medrol Dose Pack and Celebrex. She returned on 1-25-05 and he suggested multidisciplinary pain management. She was seen by Dr. Simmons on 9-21-05. She underwent an injection to SI joint and had a follow-up on 10-13-05 where the patient continued to complain of pain over the lumbar spine and weakness over the left lower extremity. Recommendation for Discography was given.

Ms. ___ was seen in follow-up on 11-03-05. The patient had an MRI of Lumbar Spine on 11-1-05 done by her personal insurance. This MRI showed: Desiccation of the disc at L4-L5 and L5-S1 segments with bilateral facet arthrosis, most significant at L4-L5 greater than L5-S1 segment. She also underwent lower extremity L4, L5 and S1 sensory radiculopathy and bilateral lower extremity L4 through S1 motor radiculopathy.

On 12-21-05 Dr. Simmoms saw the patient in follow-up her pain was rated about 7/10 on a 0-10 VAS scale again a recommendation for lumbar Discogram was recommended.

On 1-25-06 she had a Psychiatrist evaluation by James Ganc, M.D. and was diagnosed with Major Depressive disorder and generalized anxiety disorder. On 01-26-06 she had a follow-up visit with Dr. Simmons at the Alamo Bone and Joint Clinic and a bilateral L4-L5, L5-S1 facets injection was recommended.

On 02-08-06 she had a follow-up with Dr. Ganc who requested six sessions of individual psychotherapy and prescribed Seroquel 100 mg. On 03-07-06 she had a follow-up with Dr. Simmons at Alamo Clinic a prescription for a walking cane was given and the patient was recommended to continue with her current medications.

On 3-22-06 she was seen on a follow-up by Dr, Ganc where she stated that she was feeling better in regards to her depression. She was recommended to continue Cymbalta 90 mg a day and Seroquel 100 mg at night.

On 03-28-06 the patient had a follow-up with Dr. Simmons. The patient was still taking hydrocodone 5/500 mg Lidoderm patches, Ibuprofen, Seroquel and Cymbalta. Chronic Pain Management was recommended. On 4-19-06, Dr Ganc recommended to continue with individual psychotherapy and her current medications. The patient was responding well to treatment.

On 05/02/06 Ms. ____ had a follow-up with Dr. Simmons and there were no significant changes. The patient was still awaiting her injections to be approved and an attempt to start working on modified duty was planned by Dr. Simmons.

RECORDS REVIEWED

General Records: Notification of IRO assignment dated 06-05-06; Receipt of MDR Request dated 05-23-06; Medical Dispute Resolution Request dated May 23, 2006; Pre-authorization denial of 03-09-06; Reconsideration denial of 04-10-06

Records from the carrier: Carrier's statement for IRO dated 06-09-06; Receipt of MDR Request dated 05-23-06; Notice of dispute issues by carrier dated 01-13-05/06-20-05; Notes of evaluation from Methodist Healthcare System 02-03-2004; Right foot X-Rays report from Methodist Hospital San Antonio, TX Dated 02-02-04; Right Ankle three views X-Rays Report from Methodist hospital at San Antonio, TX dated 02-02-06; Lumbar Spine X-Rays Report from Methodist hospital, san Antonio Dated 02-02-04; MRI Lumbar Spine Report Dated 03-16-04 from NIX Health Care; Initial Consultation report From The San Antonio Orthopedic Group Dated 03-25-04; Follow up Note from The San Antonio Orthopedic Group Dated 04-20-04; Initial Consultation report By David Hirsch, D.O. Dated 04-26-04; MRI Lumbar Spine Report Dated 05-22-04; Follow up Note from Dr. Hirsch dated 05-27-04, 06-23-04, 07-08-04, 07-21-04, 08-18-04, 10-05-04, 12-13-04; Investigation and surveillance report dated 09-28-04; Electrodiagnostic Report dated 10-20-04 by Dr. Hirsch; Initial office visit report from Alamo Bone and Joint Clinic dated 12-02-04; Follow up note from Alamo Bone and Joint Clinic dated 1-25-05, 0405-05, 06-24-05, 07-19-05, 08-30-05, 09-20-05,09-21-05,10-13-05, 11-03-05, 11-17-05,12-21-05, 01-26-06, 03-07-06, 03-28-06, 05-02-06; Functional Capacity evaluation Report dated 02-08-05; Letter of Medical necessity for Pain Mental Health Eval dated 02-08-05; Nueva Vida Behavioral Health associates pain mental Health evaluation report Dated 03-0105; Report of evaluation from Dr. William T. Green TWCC dated 03-15-05; Bethesda Therapy Report of evaluation dated 03-22/05; Electrodiagnostic study Report dated 08-09-05 by W.S. Avant, Jr., M.D.; Churchill Evaluation center Report of Medical Evaluation dated 08-10-05; Investigative and surveillance report dated 08-30-05,09-01-05- 09-03-05,09-04-05; Churchill Evaluation Center Report of Medical evaluation dated 11-02-05; Follow up note Nueva Vida Behavioral dated 01-15-06/04-15-06; Psychiatric evaluation Report by Dr. Jaime Ganc dated 01-25-06; Follow up Note from Dr. Ganc dated 02-08-06, 02-22-06, 03-22-06, 04-19-06; Physical therapy notes 02-12-04, 02-13-04, 02-16-04, 02-18-04, 02-20-04, 02-23-04, 03-02-0403-04-04, 03-05-04, 03-15-04, 03-16-04, 03-16-04, 03-19-04, 03-22-04, 03-23-04, 03-26-04, 07-22-0407-27-04, 07-

29-04; Bethesda Therapy follow up reports dated 6-07-05, 6-09-05, 6-14-05, 6-21-05, 6-23-05, 6-28-05, 7-28-05, 9-27-05, 10-25-05, 11-22-05, 01-10-06, 02-06-06

Records from the doctor: Alamo Bone and Joint Clinic Initial office visit report dated 12-02-04, 12-15-04; Alamo Bone and Joint Clinic report of telephonic conversation dated 5-29-06; Alamo Bone and Joint Clinic follow up note dated 5-02-06, 3-28-06, 03-07-06, 01-26-06, 12-21-05, 11-17-05, 11-03-05, 10-13-05, 09-21-05, 8-30-05, 07-19-05, 06-24-05, 06-24-05, 04-05-05, 03-23-05, 01-25-05; Alamo Bone and Joint Clinic Multidisciplinary case conference report dated 08-11-05; Alamo Bone and joint Clinic letter of response for denial of Facet Injections dated 03-17-06; MRI report from MRI Central dated 11-01-05; Pre-authorization denial for facet injections dated 03-09-06; Appeal letter denial from insurance company for facet injection dated 11-11-05

REQUESTED SERVICE

The item in dispute is the prospective medical necessity of a bilateral facet block on L4-5, L5-S1.

DECISION

The reviewer disagrees with the previous adverse determination.

BASIS FOR THE DECISION

In this case, Ms. ___ is persisting with a high level of subjective complaints and physical limitations. Unfortunately, her symptoms of radiculopathy have not subsided since the surgery. The patient's symptoms have now become not only chronic but also multifactorial. Her case management has been well attended and there has not been excessive treatment to date. She persists with pathology at the level of the lumbar spine and her psychological symptoms do not present a significant barrier to continuing with her treatment at this time. She has undergone SI injections, appropriately; however, her response was negligible. Her current multifactorial characteristics of pain include, posterior elements pain, lumbar neuritis, epineural scarring, and muscle spasms.

Nonetheless, the reviewer indicates they cannot rule out lumbar facet generated pain as contributing to her current pain syndrome. It is well known that the persistence of lumbar facet pain is mainly a clinical diagnosis that cannot be confirmed with traditional diagnostic studies. Although facet hypertrophy may be apparent on an MRI evaluation, this still cannot confirm or deny the presence of pain from the facet joint. According to ISIS guidelines of intervention, the facet joint block is widely utilized as a diagnostic tool precisely to pinpoint certain facet joints or medial nerve branches as persistent pain generators. The reviewer does not feel that this patient's sole pathology is facet-mediated pain, but this can be contributing to her current pain and limitations. She is entitled to appropriate medical care including confirmation of her pain generation and the appropriate treatment.

This patient's case is unfortunate. She continues to present significant pain and limitations despite what seems to be very good managed care. She will continue to present some degree of pain and limitations due to her failed surgical outcome. If, however, she can obtain some degree of increased range of motion and decreased pain with facet / medial branch blocks or radiofrequency lesioning, then the reviewer feels that it would be medically necessary in her case. If she does not present with significant pain relief after the first application, then another venue of treatment would need to be explored.

REFERENCES

- (1) ISIS Practice Guidelines and Protocols. 2004.
- (2) Bogduk, N. Diagnostic Nerve Blocks in Chronic Pain. *Best Pract Res Clin Anaesthesiol.* 2002 Dec; 16(4), 565-78.
- (3) Pappas, John L., Cynthia H. Kahn and Carol Warfield. Facet Block and Neurolysis. *Interventional Pain Management.* 1996. pp 284-303.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that the reviewing provider has no known conflicts of interest between that provider and the injured employee, the injured 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 IRO.

Sincerely,

Wendy Perelli, CEO

Your Right To Appeal

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.

Sincerely,

Wendy Perelli, CEO

I hereby certify, in accordance with DWC- Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the Division via facsimile, U.S. Postal Service or both on this 30th day of June 2006

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli