



Specialty Independent Review Organization, Inc.

October 12, 2006

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

Patient: ____
DWC #: ____
MDR Tracking #: M2-06-1857-01
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 Neurology. 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

The injured employee suffered a work related injury to his lower back on _____. He was pinned against a piece of machinery and developed acute pain in his lower back with pain in his left lower extremity. He also complained of numbness over the posterolateral aspect of his left leg. The patient presented to Nova Health Care Center on the day of the injury and filed an Employer's First Report of Injury or Illness. He then came under the care of Dr. Dean McMillan from the Pain and Recovery Clinic of North Houston. Dr. McMillan evaluated the patient on December 6, 2005, approximately 2 weeks after the accident. He noted on examination that he ambulated with a slow, controlled gait without the assistance of any ambulatory aids. Examination of the lumbar spine revealed tenderness at the midline at L2 to S1 with tenderness and mild spasms of the paraspinal muscles bilaterally, greater on the left side. There was tenderness over the left SI joint and the left gluteus. Kemp's test was positive bilaterally.

Straight leg raising was positive bilaterally provoking increased low back pain with referred pain to the left gluteus and lower extremity. There was decreased sensation of the L5 and S1 dermatomes on the left. Patrick's test was positive on the left with pain at the lower back and the left SI joint. There was weakness at the left lower extremity as compared to the right. The specific myotomal distribution was not given. There was moderate tenderness over the lower anterior abdomen on the left, but no indication of a hernia.

Dr. McMillan reviewed x-rays of the lumbar spine taken on 11-24-05 which revealed no gross abnormalities. His initial diagnosis was lumbar radiculitis. He recommended physical therapy, including cryotherapy, hot packs, electrical muscle stimulation, ultrasound and massage. He also prescribed Celebrex. He was temporarily restricted from working.

The patient underwent an MRI of the lumbar spine on 12-13-05. At L3-4 there was a 2 to 3 mm broad based disk bulge vs. protrusion causing slight to moderate canal stenosis and there was mild lateral recess stenosis bilaterally. At L4-5 there was a 2 to 3 mm broad based disk bulge, this vs. protrusion extending laterally towards the lateral recess on the left and slight to moderate narrowing of the left lateral recess. At L5-S1 there was a small 2.5 mm central disk protrusion slightly indenting upon the thecal sac but no significant canal or foraminal stenosis.

Also, the patient underwent EMG and nerve conduction studies on 02-28-06. They were performed by Dr. Innad Hassaina. These revealed a right S1 radiculopathy and bilateral L5 and left S1 radiculopathies.

The patient received continuous physical therapy over the next several months. He underwent a psychological assessment by Denise Turboff, M.E.d. on 04-27-06. This revealed significant scores on the Beck Depression Inventory-II indicating severe depression and significant scores on the Beck Anxiety Inventory-II, also indicating severe anxiety. The Axis I impression was pain disorder associated with both psychological factors and a general medical condition and adjustment disorder with mixed anxiety and depressed mood. GAF was 58.

Ms. Turboff felt that the patient was an appropriate candidate for a comprehensive chronic pain management program which would include individual psychotherapy, group psychotherapy, biofeedback, occasional counseling, nutritional counseling, exercise, aqua therapy and physical therapy.

Previous to this assessment, Mr. ___ had undergone transforaminal epidural injections at L4-5 by Dr. Ishan Ashanti on 03-30-06 which were minimally beneficial. He entered into a chronic pain management program which proceeded from 05-05-06 thru 06-07-06.

The patient underwent a Required Medical Examination on 06-22-06 by Dr. Brownhill, an orthopaedist. This revealed normal neurological function.

He underwent a functional capacities assessment on 06-29-06 which revealed that he could perform at a medium physical demand level but his normal occupation required a heavy physical demand level.

A request was made for a work hardening. However, this was declined on initial request based upon the fact that the patient had appeared to be functioning at a reasonably good overall level based upon his recent functional capacity evaluation. He was also compliant with his home exercise program and there did not appear to be any underlying psychological issues. It was felt by two previous reviewers that a work hardening program was not medically necessary. One of the previous reviewers was a psychiatrist and one was a chiropractor.

Please note that the claimant did have a psychological reevaluation prior to consideration of the work hardening program. This was also performed by Ms. Turboff on 06-28-06. It was felt that he was highly motivated to recover and to return to work and had benefited from the chronic pain program and was now ready to transition back to work. He was felt to be an appropriate candidate for the work hardening program and that there were no psychological issues evident that would hinder his ability to participate in that type of program.

RECORDS REVIEWED

Correspondence to Dean McMillan, MD, Pain and Recovery Clinic from Intracorp dated 07-05-06 and 07-20-06.

Reconsideration letter from Dean McMillan, MD, Pain and Recovery Clinic to Risk Enterprise Management dated 07-30-06.

Pre-authorization letter to Risk Enterprise Management from Nester Martinez, DEC, Pain and Recovery Clinic.

Work hardening assessment psychosocial history by Denise Turboff, M.E.d. dated 06-28-06.

Functional capacity testing, Gulf Coast Functional Testing dated 06-29-06.

Employer's first report of injury or illness dated 12-09-05 by Nova Health Care Center.

MRI of the lumbar spine dated 12-13-05.

Office progress notes, physical therapy progress notes, TWC work status report, Dean McMillan, MD dated 11-18-05 thru 07-26-06.

EMG report by I. Hassani, MD dated 02-28-06.

Office notes and provider reports, Ashanti Pain and Wellness Clinic dated 02-24-06 to 03-30-06.

Required medical examination by Robert Brownhill, MD dated 06-22-06.

Mental health evaluation by Denise Turboff, M.E.d. dated 04-27-06.

Behavioral Chronic Pain Management Program monitoring forms dated 05-05-06 thru 06-07-06.

REQUESTED SERVICE

The item in dispute is the prospective medical necessity of 20 sessions of work hardening.

DECISION

The reviewer disagrees with the previous adverse determination.

BASIS FOR THE DECISION

The reviewer states that the patient has achieved improvement in his pain and overall level of function since his initial injury on ____, yet per the functional capacities evaluation of 06-29-06, he was not yet capable of performing at the heavy demand level as required by his occupation as a general laborer. The functional capacity evaluation was thought to be valid. The assessment done by Dr. Brownhill shows that the patient had intact neurological function, however, this would not be an accurate representation of the requirements of a heavy duty occupation. Also, there were objective abnormalities noted during the patient's workup including the abnormal MRI of the lumbar spine and abnormal EMG study showing bilateral lumbosacral radiculopathies.

REFERENCES

- 1: Baker P, Goodman G, Ekelman B, Bonder B.
The effectiveness of a comprehensive work hardening program as measured by lifting capacity, pain scales, and depression scores.
Work. 2005;24(1):21-31.
PMID: 15706069 [PubMed - indexed for MEDLINE]
- 2: Schonstein E, Kenny DT, Keating J, Koes BW.
Work conditioning, work hardening and functional restoration for workers with back and neck pain.
Cochrane Database Syst Rev. 2003;(1):CD001822. Review.
PMID: 12535416 [PubMed - indexed for MEDLINE]
- 3: Scully-Palmer C.
Outcome study: An industrial rehabilitation program.
Work. 2000;15(1):21-23.
PMID: 12441505 [PubMed - as supplied by publisher]
- 4: Johnson LS, Archer-Heese G, Caron-Powles DL, Dowson TM.
Work hardening: Outdated fad or effective intervention?
Work. 2001;16(3):235-243.
PMID: 12441453 [PubMed - as supplied by publisher]
- 5: Weir R, Nielson WR.
Interventions for disability management.
Clin J Pain. 2001 Dec;17(4 Suppl):S128-32. Review.
PMID: 11783825 [PubMed - indexed for MEDLINE]
- 6: Wyman DO.
Evaluating patients for return to work.
Am Fam Physician. 1999 Feb 15;59(4):844-8. Review.

PMID: 10068708 [PubMed - indexed for MEDLINE]

7: Beissner KL, Saunders RL, McManis BG.

Factors related to successful work hardening outcomes.

Phys Ther. 1996 Nov;76(11):1188-201.

PMID: 8911432 [PubMed - indexed for MEDLINE]

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 12th day of October, 2007

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli