



IMED, INC.

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NOTICE OF INDEPENDENT REVIEW

NAME OF EMPLOYEE:
IRO TRACKING NUMBER: M2-06-1731-01
NAME OF REQUESTOR: Behavioral Healthcare Associates
NAME OF CARRIER: Ace American Insurance Company
DATE OF REPORT: 08/22/06
IRO CERTIFICATE NUMBER: 5320

TRANSMITTED VIA FAX:

IMED, Inc. has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO).

In accordance with the requirement for TDI to randomly assign cases to IROs, TDI has assigned your case to IMED, Inc. for an independent review. The peer reviewer selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the peer reviewer 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.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by a chiropractic physician reviewer who is Board Certified in the area of Chiropractic Medicine and is currently listed on the DWC approved doctor list.

I am the Secretary and General Counsel of IMED, Inc., 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 and the provider, the injured employee, 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 Independent Review Organization. I further certify that no conflicts of interest of any nature exist between any of the aforementioned parties and any director, officer, or employee of IMED, Inc.

REVIEWER REPORT

I have reviewed the records forwarded on the above injured worker and have answered the questions submitted.

Information Provided for Review:

- TWCC-60 addendum physician statement response to MDR.
- 02/17/05 – Spinal ultrasound from Sanford Davis, M.D., with an impression of diffuse inflammatory changes through the thoracic, lumbar, and sacral spine.
- 02/17/05 – Lumbar spine MRI interpreted by Darrell Hobson, DC, with the following impressions: 1) 2 mm circumferential annular bulge at L4-L5 associated with a hyperintense annular fissure/tear in the right foraminal/extraforaminal zone resulting in mild right exit neural foraminal stenosis; 2) mild intervertebral osteochondrosis at L4-L5.
- 02/18/05 – Nerve conduction study of the lower extremity interpreted by Jose A. Marquez, M.D., to reveal findings indicative of left S1 radiculopathy.
- 02/18/05 – Dermatome evoked potentials of the lower extremities interpreted by Jose A. Marquez, M.D., to be normal.
- 02/18/05 – Somatosensory evoked potential for the lower extremities interpreted by Jose A. Marquez, M.D., to be a normal study.
- 02/19/05 – Digital Radiograph Solutions radiographic biomechanical report interpreted by Jack L. Mikeworth, D.C.
- 04/14/05 – EMG/NCS report interpreted by R. Frank Morrison, M.D., to reveal an abnormal EMG suggesting an L5 radiculopathy.
- 07/12/05 – Chart note from Robert J. Henderson, M.D., who recommended the employee be taught some stabilization exercises and proper body mechanics and progress to work conditioning and work hardening and then return to work.
- 07/15/05 – Behavioral Healthcare Associates psychological clinical interview performed by Norma S. Salinas, LMSW, who recommended additional psychological testing.
- 08/30/05 – Psychological testing with Norma S. Salinas, who recommended four sessions health and behavioral intervention counseling.
- 10/03/05 – Chart note from Robert J. Henderson, M.D., who recommended that the employee stop the use of nicotine entirely, and also recommended that he increase his level of fitness on a home exercise program.
- 11/03/05 – Additional chart note from Robert J. Henderson, M.D., with a recommendation to proceed with preauthorization for a disco CT of the lower three intervertebral spaces with a control level of L2-L3 if indicated.
- 01/03/06 – Behavioral Healthcare Associates health and behavioral health intervention chart note.
- 01/24/06 – Chart note from Behavioral Healthcare Associates health and behavioral intervention. It stated in the chart note that the employee continues to cite fear of surgery as one of his primary problems. The chart note states, “He has described a fear of pain from the surgery also stresses him, and he feels that returning to work is becoming more realistic despite pain.”

- 01/29/06 – Chart note from Behavioral Healthcare Associates health and behavioral intervention, which recommended that the employee would be a good candidate for chronic pain considering that his pain level had dropped from a 6 to a 4 during treatment.
- Examination report from C. M. Schade, M.D., Ph.D., who indicated a plan to continue Lortab, provide a prescription for physical therapy core stabilization for home exercise program and a follow-up with Dr. Henderson.
- 03/21/06 – CT of the lumbar spine was interpreted by Frank Sabatelli, M.D., to reveal the following impression: 1) L5-L6 Grade IV annular tear. There was a posterior central broad-based protrusion with ventral thecal sac impression and associated accumulation of contrast in the protrusion. 2) Limited Grade II tear demonstrated at L5-S1. 3) Moderate right and mild left L5-L6 foraminal stenosis.
- 03/31/06 – Chart note from Robert J. Henderson, M.D. Dr. Henderson informed the employee that he did not feel he was a surgical candidate, and that in order for him to improve, he is going to have to do his stretching, strengthening, and conditioning program and get more physically fit. Dr. Henderson told the employee there was nothing else that he could do to benefit him and returned him to the care of Dr. Kilgore.
- 04/11/06 – Chart note from Robert J. Henderson, M.D. Dr. Henderson indicated that the employee had “failed out” of physical therapy including work hardening, and due to the employee’s poor response to conservative therapy, indicated that the employee was a candidate for a multidisciplinary pain management program.
- 04/26/06 – Follow-up evaluation with C. M. Schade, M.D., Ph.D., who established a plan for the employee to follow-up with Dr. Kilgore and Dr. Henderson.
- 04/27/06 – Functional Capacity Evaluation (FCE) recommending that the employee would benefit from a chronic pain management program followed by a return to work.
- 06/07/06 – Behavioral Healthcare Associates psychotherapeutic intervention reassessment summary, which recommended that an additional six weeks of interdisciplinary pain management program.
- 06/08/06 – Documentation from Marsha Miller, D.C., Shawn Kilgore, D.C., asking to reconsider a request for approval of precertification of chronic pain management.
- 06/14/06 – A letter concerning reconsideration of a request for approval for chronic pain management from Steven S. Callahan, Ph.D.

Clinical History Summarized:

The employee was injured at work on ____ when he was lifting a 40-50 pound bag of sand to place on an oil spill at _____ where he was employed in the capacity of a porter.

The employee did not seek medical assistance for approximately three days when he consulted with Dr. Kilgore at Buckner Back & Neck Pain Clinic.

Since beginning care with Dr. Kilgore, the employee has had an MRI of the lumbar spine, as well as a CT and myelogram of the lumbar spine, which all consistently revealed a broad-based annular protrusion at L4-L5 with mild foraminal stenosis. The employee has also had electrodiagnostic studies which confirmed the presence of a radiculopathy at L5.

The employee has received treatment which consisted of chiropractic care, passive physical therapy modalities, prescription medications, active physical therapy, work conditioning, recommendations for at-home exercise programs, recommendations to stop smoking, and a trial of chronic pain management which has included individual psychological therapy sessions. There was also one mention that the employee had received an epidural steroid injection. However, there was no specific documentation in regard to a lumbar epidural steroid injection.

Disputed Services:

Preauthorization denied for thirty (30) sessions of chronic pain management.

Decision:

Chronic pain management for thirty (30) days is medically necessary in this case.

Rationale/Basis for Decision:

Dispute in this case appears to be related to the duration of the chronic pain management program. The treating doctor indicates that the seven days of chronic pain management which were performed for this employee was not an adequate trial, and therefore, additional chronic pain management should be preauthorized. I would agree with the treating doctor in this case and base this on the *Guidelines For Chiropractic Quality Assurance & Practice Parameters* proceeding to the Mercy Center Consensus Conference of 1993, Chapter 8, Page 118 under a subheading of Definitions Adequate Trial of Treatment/Care stating a course of two weeks of each of two different types of manual procedures (four weeks total) after which in the absence of documented improvement, manual procedures are no longer indicated. These guidelines indicate that a longer duration of the chronic pain management program would be appropriate to establish an adequate trial to determine if in fact improvement had been documented. It should also be considered that this employee would also meet the definition of complicated case as set forth by the Mercy Center Consensus Conference which states "A case where the patient because of one or more identifiable factors includes regression or retarded recovery comparison with expectations from the natural history". Warning signs of a complicated case is a pattern of chronicity in this case would be 1) manic complaints remain static longer than two to three weeks, 2) anxiety or depression, and 3) functional or emotional disability all of which were certainly documented in the employee's case.

The rationale for the opinion stated in this report is based on the record review, the aforementioned references, as well as the broadly accepted literature to include 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 IMED, Inc. is deemed to be a DWC 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 thirty (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:

Chief Clerk of Proceedings/Appeals Clerk
TDI-Division of Workers' Compensation
P.O. Box 17787
Austin, TX 78744

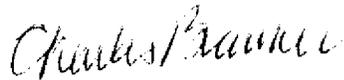
A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in this dispute.

If you are disputing the 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 thirty (30) days after the date on which the decision that is the subject of the appeal is final and appealable.

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I hereby verify that a copy of this Independent Review Organization's decision was sent to the respondent, the requestor, DWC, and the injured worker via facsimile or U.S. Postal Service this 23rd day of August, 2006 from the office of IMED, Inc.

Sincerely,

A handwritten signature in cursive script that reads "Charles Brawner".

Charles Brawner
Secretary/General Counsel