



Specialty Independent Review Organization, Inc.

October 3, 2006

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

Patient: ____
DWC #: ____
MDR Tracking #: M2-06-1927-01
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 Ph. D/ Licensed Professional Counselor with a specialty in Counseling. 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

Mr. ____ sustained a compensable work related injury to his lower back on ____ while performing his customary duties as a floor installer for ____ . He had been employed with the company for 39 months prior to his injury. He reported that he was using a jackhammer to break up ceramic floors over a period of a week when he began to experience pins and needles sensation and pain in the lumbar spine. He informed a co-worker of his pain, but continued to work. He reported that the next day he began experiencing a shooting pain in his right leg. He first sought medical treatment on ____ from the emergency room of Baylor Hospital. He received pain medication and learned he had to wait for a follow up with the doctor at Baylor. He then transferred his care to Dr. Marivel Subia, DC on 08/02/05. An MRI on 08/11/05 revealed desiccated paracentral to right 9mm herniation at L4-5, desiccated 4mm

posterior central protrusion at L5-S1, and inferior encroachment into the foramina bilaterally at L5-S1. He began treatment at Active Behavioral Health and Rehab on 09/28/05 for a 4 week work hardening program. Mr. ___ saw Br. Benbow for an orthopedic consultation on 10/13/05 and surgery was recommended. Dr. Battle performed a lumbar microdisectomy, laminectomy, foraminotomy, and partial facetectomy at L4-L5 on the right on 11/30/05.

Mr. ___ received group therapy as part of a work hardening program before and after surgery. He reported no previous mental health concerns prior to his injury. He was given a behavioral health assessment and evaluation on 01/30/06 by Claudia Ramirez, LPC. Results suggested mild anxiety and severe depression which were incongruent with his ratings on the PSRS and his emotional presentation. Following this evaluation, he received six sessions of individual psychotherapy. His symptoms were: financial distress, initial and sleep maintenance insomnia, sadness, and fretting. He reported no suicidal ideation. He was prescribed 25mg of Zoloft on 05/11/06. Mr. ___ was reluctant to take it stating he does not think he needs any medicine. He reported that he does not feel like he is truly depressed at all and was anxious to get back to work.

Dr. Andrew Small, MD recommended biofeedback therapy on 06/12/06 due to significant symptoms of muscular dysfunction from bracing as well as anxiety and fear about possible re-injury or pain exacerbation. Dr. Small stated that although Mr. ___ completed six psychotherapy sessions, he remained in the moderate range.

Dr. Ronnie Shade, MD evaluated Mr. ___ on 06/13/06 for determination of maximal medical improvement. Mr. ___ was found to be at maximal medical improvement with an impairment rating of 5% whole person. Dr. Andrew Small followed up with Mr. ___ on 07/17/06 and agreed with impairment rating. Mr. ___ did not need nor want any medication.

RECORDS REVIEWED

MRI Results by Tom Knight, MD	08/11/2005
Operative Report by Francisco, MD	11/30/2005
Behavioral Medicine Re-Evaluation by Claudia Ramirez, MA, LPC	01/30/2006
Medication Management session notes by Andrew Small, MD	05/11/2006
Medication Management session notes by Andrew Small, MD	05/18/2006
Referral for Biofeedback by Andrew Small, MD	05/31/2006
Medication Management session notes by Andrew Small, MD	06/01/2006
Letter of Medical Necessity by Andrew Small, MD	06/12/2006
Maximal Medical Improvement and Impairment Rating by Ronnie Shade, MD	06/13/2006
Behavioral Health Treatment Preauthorization Request	06/14/2006
Determination of Medical Necessity by Concentra Health Services, Inc.	06/19/2006
Reconsideration: Behavioral Health Treatment Preauthorization Request	06/29/2006
Utilization Review Findings	07/07/2006
Medication Management session notes by Andrew Small, MD	07/17/2006

REQUESTED SERVICE

The requested service is biofeedback for four modalities EMG, PNG, TEMP and GSR.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

Mr. ___ has received at least 8 group psychotherapy sessions and six sessions of individual psychotherapy. He reported that he did not need nor want psychotropic medication. Based on his perceived lack of necessity of mental health treatment, Mr. ___ would not be a viable candidate for further therapy. Asay & Lambert (1999) reported that of the four factors of positive outcome in psychotherapy, two (55%) are within the client's control. Therefore, if the client is not committed to the process, positive outcome will not be achieved. Due to this fact, medical necessity is not established.

REFERENCES

Asay, T.P. & Lambert, M.J. (1999). The empirical case for the common factors in therapy: Quantitative findings. In MA. Hubble, B.L. Duncan, & S. D. Miller (Eds.), *The heart and soul of change*. Washington, DC: American Psychological Association.

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 3rd day of October 2006

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli