January 4, 2007

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

Patient: ___
DWC #: ___
MDR Tracking #: M2-07-0494-01
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 Chiropractor with a specialty in Chiropractic. 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 above-mentioned patient was injured on ___ while employed with .
The injured occurred when the injured worker was moving a large tub and tripped on some wood and fell to the ground. Upon falling, the tub landed on top of him. The injury is to the lumbar spine. He went to the company doctor and was treated with medication, rehabilitation, injections and ultimately a lumbar laminectomy, PLIF at L3/4 and L4/5. He presented to the office of Patrick Davis, DC in July of 2006 for continued treatment due to continuing pain. He has undergone twelve weeks of rehabilitation according to the provider notes.

RECORDS REVIEWED

Records were received and reviewed from the requestor, respondent and from another treating provider, J. Milani, MD. Records from the respondent include the following: 12/18/06 letter from G. Solcher, 12/8/06 letter from G. Solcher, DWC 60 and attachments including denial letters from Genex and FOL acknowledgment of assignment and BRC request for evidence letter.

Records from the requestor include the following: 7/10/06 letter from Injury Solutions/P. Davis, DC, 3/13/06 operative report (multiple copies), 8/30/06 letter from Dr. Davis, 10/2/06 letter from Dr. Davis, discharge summary of 3/16/06 from Pine Creek Surgery Center and 10/30/06 letter from Dr. Davis.

Records from Dr. Milani include the following (in addition to any previously mentioned records): workers' compensation verification form of 12/4/06, TWCC 73, 12/5/06 exam note from Dr. Milani, 9/12/06 to 9/19/06 rehab consult meeting notes, Dr. Milani SOAP notes from 2/21/06 through 6/20/06, 2/1/06 med history report, patient history and physical examination reports and 2/1/06 x-ray report.

REQUESTED SERVICE

The requested service is for post operative physical medicine and rehabilitation three times per week for two weeks consisting of the following CPT codes: 97110, 97530, 97140, 97112 and 97035.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer is that there are not updated clinical reports since late October of 2006. Secondly, there are no PPE's or FCE's provided to determine the patient's PDL progression during the treatment protocols. The lack of these materials makes it difficult to approve any further treatment protocols. The patient's ROM was within normal limits as of the 10/30/06 examination as per the AMA Guides, Fourth Edition. There is no record of a neurodiagnostic examination. All MMT exams indicate all muscles 4+ or greater as of 10/30/06. No lift tests were provided.

According to McFarland, a lumbar post-surgical fusion with laminectomy/discectomy should utilize between a 12 to 18 weeks post-surgical in office rehab protocol. A home exercise program is generally started within the first 2-6 weeks. The notes provided do not show that the patient requires further rehabilitation protocols. The notes also do not describe the exact exercises that were performed in the past. The provider notes the requested treatment plan is to "improve ROM, strengthen muscles…improve ADL's…enhance physical/functional recovery so he may achieve an acceptable health status…" The reviewer notes that ROM was normal, strength was

near normal, ADL's were not discussed and PDL was not determined via physical means of examination.

The MDA indicates that hypertension is a comorbid condition, which leads to an extended treatment period in some cases. This patient has hypertension, which is a possible extenuating factor; however, in this case the records do not support continued rehabilitation protocols as previously performed.

REFERENCES

Guides to the Evaluation of Permanent Impairment, Fourth Edition, American Medical Association, 1994 p 126-30

Reed, P The Medical Disability Advisor, 2005

McFarland C Burkhart, D Rehabilitation Protocols For Surgical and Non-surgical Procedures-Lumbar Spine. North Atlantic Books, 1999 p. 65-9.

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 4th day of January 2007

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli