



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-0248-01
NAME OF REQUESTOR: Buena Vista Workskills/Phil Bohart
NAME OF PROVIDER: Rita Sealy, D.C.
REVIEWED BY: Board Certified in Psychiatry
Board Certified in Neurology in Psychiatry
Board Certified in Pain Medicine
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 12/09/05

Dear Buena Vista Workskills:

Professional Associates has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO) (#IRO5288). Texas Insurance Code Article 21.58C, effective September 1, 1997, allows a patient, in the event of a life-threatening condition or after having completed the utilization review agent's internal process, to appeal an adverse determination by requesting an independent review by an IRO.

In accordance with the requirement for TDI-Division of Workers' Compensation (DWC) to randomly assign cases to IROs, DWC has assigned your case to Professional Associates for an independent review. The reviewing physician selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the reviewing physician 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. determination, and any documentation and written information submitted in support of the appeal.

This case was reviewed by a physician reviewer who is Board Certified in the area of Psychiatry, Psychiatry in Neurology, and Pain Medicine and is currently listed on the DWC Approved Doctor List.

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I am the Secretary and General Counsel of Professional Associates 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 the provider, 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 Independent Review Organization.

REVIEWER REPORT

Information Provided for Review:

An Employer's First Report of Injury or Illness dated ____

An emergency room report with an unknown physician (the signature was illegible) dated 02/17/03

X-rays of the left elbow and lumbar spine interpreted by Morgan G. Dunne, M.D. dated 02/17/03
Evaluations with A. Wright, D.O. at Texas MedClinic on 02/17/03, 02/27/03, 03/24/03, 04/08/03, and 07/23/03

Physical therapy with an unknown therapist (the signature was illegible) at Texas MedClinic dated 03/04/03 and 03/06/03

A physical therapy progress report from the unknown therapist dated 03/17/03

An evaluation with David Gude, M.D. dated 04/08/03

TWCC-73 forms from Dr. Wright dated 07/31/03 and 02/21/04

A TWCC-73 form from Alex X. Rivera, D.C. dated 08/01/03, 08/15/03, 08/29/03, 09/15/03, and 10/07/03

Computerized muscle and range of motion testing from Dr. Rivera dated 08/05/03

Chiropractic therapy with Dr. Rivera dated 08/12/03, 08/14/03, 08/15/03, 08/18/03, 08/20/03, 08/21/03, 08/25/03, 08/27/03, 08/28/03, 08/29/03, 09/02/03, 09/03/03, 09/04/03, 09/08/03, 09/10/03, 09/15/03, 09/17/03, 09/18/03, 09/19/03, 09/23/03, 09/30/03, 10/07/03, 10/15/03, and 10/23/03

An MRI of the lumbar spine interpreted by Vidya Kamath, M.D. dated 09/05/03

A Functional Capacity Evaluation (FCE) with Dr. Rivera dated 09/18/03

A behavioral medicine consultation with Anna Flores, M.A., L.P.C.-I. and Tracey Duran, M.S., L.P.C. dated 09/19/03

Behavioral medicine testing results from Ms. Flores and Ms. Duran dated 10/07/03

A pain management consultation with Berney Keszler, M.D. dated 10/15/03

An operative report from Dr. Keszler dated 10/31/03

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Chiropractic treatment with Rita J. Sealy-Wirt, D.C. dated 11/10/03, 11/24/03, 05/11/04, 05/12/04, 05/21/04, 06/07/04, 06/21/04, 06/23/04, 06/25/04, 08/30/04, 05/03/05, and 07/13/05
TWCC-73 forms from Dr. Sealy-Wirt dated 11/28/03, 03/26/04, 06/21/04, 08/23/04, 09/17/04, and 10/15/04

A Required Medical Evaluation (RME) with Daniel C. Valdez, M.D. dated 12/31/03

A Designated Doctor Evaluation with Walter Kane, M.D. dated 04/21/04

An EMG/NCV study interpreted by William Janes, M.D. dated 04/23/04

Computerized range of motion testing with Dr. Sealy-Wirt dated 05/11/04 and 06/21/04

An evaluation with Dmitriy Buyanov, M.D. dated 05/18/04

An epidural steroid injection (ESI) with Dr. Buyanov dated 06/09/04

Evaluations with Fernando T. Avila, M.D. dated 07/19/04, 09/16/04 and 10/15/04

An impairment rating report from Shawn A. Fyke, D.C. dated 07/26/05

A Designated Doctor Evaluation with Henry Herrera, M.D. dated 07/28/05

Behavioral medicine evaluation with Melissa Brown, M.S., L.P.C.-I. and Phil Bohart, M.S., L.P.C. dated 08/05/05

A letter of medical necessity from Dr. Sealy-Wirt dated 08/12/05

An evaluation with Steven J. Cyr, M.D. dated 08/31/05

A TWCC-73 form from James W. Simmons, Jr., M.D. dated 08/31/05

Preauthorization requests from Buena Vista Workskills dated 08/31/05 and 09/21/05

Chiropractic therapy with Dr. Fyke dated 09/02/05

Letters of denial from UniMed Direct, L.L.C. dated 09/06/05 and 10/03/05

Reconsideration reports from Nicole Mangum, Ph.D. and Jeanne Selby, Ph.D. dated 09/21/05 and 10/13/05

Clinical History Summarized:

The patient was injured on ___ when he slipped and fell on ice in a freezer area. The patient was initially seen at Baptist Health System Hospital with normal elbow x-rays and lumbar spine x-rays consistent with degenerative changes. The patient went through extensive chiropractic visits in 2003 and 2004 with minimal chiropractic visits in 2005. The patient was seen at Hill country behavioral medicine on 09/19/03. The patient was diagnosed with an adjustment disorder and chronic pain complaints. Individual psychotherapy and biofeedback PPA were recommended to help with pain complaints. The patient began to follow with Dr. Keszler in October 2003. Various interventional procedures were done, including ESIs. Chiropractic care and interventional pain medicine was done into 2004. On 08/05/05, the patient was diagnosed with a pain disorder. This was per Licensed Professional Counselors Brown and Bohart. Individual psychotherapy and biofeedback PPA were recommended. On 08/31/05, the

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patient was seen by Dr. Cyr and was diagnosed with spinal stenosis at L3-4 and L4-5 and repeat ESIs were recommended.

Disputed Services:

Individual psychotherapy once a week for six weeks and biofeedback PPA baseline assessment with four modalities (EMG, PNG, TEMP, and SC/GSR)

Decision:

I disagree with the requestor. The individual psychotherapy once a week for six weeks and biofeedback PPA baseline assessment with four modalities (EMG, PNG, TEMP, and SC/GSR) would be neither reasonable nor necessary as related to the original injury.

Rationale/Basis for Decision:

The ACOEM Guidelines, Chapter 5 specifically states, "The consequences of disability to the individual are profound and multidimensional in scope, yet many workers and their families are unaware of the harm that may result from unnecessary absence from work." Page 75.

"Most adults derive a good deal of their self image from her work role." Page 76.

"In order for the injured worker to stay at or return successfully to work, he or she must be physically able to perform some necessary job duties." Page 77.

"Clinicians can assume patients will work during the medical workup and treatment. Treatment plans can always include staying at or returning to work (with modifications if necessary to keep the patient safe and as comfortable as possible), unless bed or home confinement is specifically medically indicated." Page 79.

Furthermore, ACOEM Guidelines, Chapter 6, page 106 states, "Evidence that factors other than the nature of the injury are primary determinants of disability clearly suggests that treating pain, even acute pain, should emphasize functional restoration rather than relief of pain because the latter may reinforce psychological, environmental, and psychosocial factors that predispose progression to chronic pain states."

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The patient had a low back sprain/strain superimposed on degenerative lumbar changes. Evidenced based guidelines do not support unimodal psychotherapy with or without biofeedback for pain complaints. American College of Occupational and Environmental Guidelines (ACOEM) chapter 6, page 107, reads: "The immediate focus should be on functional improvement rather than on abolishing pain. Physicians should be aware that while complete cessation of pain may not be a realistic goal for some patients, self-care, functional restoration, and successful reintegration into the workforce can be attainable goals even though the complete elimination of pain may not be possible." There are many dimensions to pain. A major dimension of chronic pain complaints is fear avoidance as a result of a fear of reinjury. Pain related to fear avoidance models typically describe these chronic pain patients as perpetuating disability, and ACOEM chapter 6, page 113 reads, "Exposing patients to activities they fear as a way to reduce their pain-related fear can be a powerful intervention for chronic pain. A decline in pain related fear may reduce pain vigilance, resulting in a decline in reported pain intensity." The proposed individual psychotherapy would not provide in vivo exposure to feared activities that purportedly generate pain. Evidence based guidelines and research also do not support biofeedback for this type of pain complaint.

The literature generally supports biofeedback as efficacious for the following conditions:

1. Urinary incontinence
2. Migraine and tension headaches
3. Temporomandibular joint (TMJ) syndrome
4. Neuromuscular rehabilitation of stroke and traumatic brain injury (TBI)
5. Fecal incontinence
6. Raynaud's disease
7. Chronic constipation
8. Irritable bowel syndrome
9. Refractory severe subjective tinnitus.

Biofeedback is typically considered experimental, investigational, or non-efficacious for most other indications, including:

1. Essential hypertension
2. Anterior shoulder instability or pain
3. Attention deficit hyperactivity disorder

4. Anxiety disorders
5. Chronic pain (e.g., fibromyalgia) other than migraine and tension headache
6. Intractable seizures
7. As a rehabilitation modality for spinal cord injury, spasmodic torticollis, or following knee surgeries
8. Spasticity secondary to cerebral palsy
9. Addictions
10. Depression
11. Insomnia
12. Allergy
13. Autism
14. Chronic fatigue syndrome
15. Daytime syndrome of urinary frequency
16. Vertigo/disequilibrium
17. Urinary retention.
18. Post-traumatic stress disorder

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53. ACOEM chapter 12 page 300. "Physical modalities such as massage, diathermy, cutaneous laser treatment, ultrasound, transcutaneous electrical neurostimulation (TENS) units, percutaneous electrical nerve stimulation (PENS) units, and biofeedback have no proven efficacy in treating acute low back symptoms. Insufficient scientific testing exists to determine the effectiveness of these therapies, but they may have some value in the short term if used in conjunction with a program of functional restoration. Insufficient evidence exists to determine effectiveness of sympathetic therapy, a noninvasive treatment involving electrical stimulation, also known as interferential therapy. At home local applications of heat or cold are as effective as those performed by therapists." Furthermore, "American College of Occupational and Environmental Guidelines (ACOEM) chapter 6, page 107, reads: "The immediate focus should be functional improvement rather than on abolishing pain. Physicians should be aware that while complete cessation of pain may not be a realistic goal for some patients, self-care,

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functional restoration, and successful reintegration into the workforce can be attainable goals even though the complete elimination of pain may not be possible." Furthermore, there are many dimensions to pain. Furthermore, pain related to fear avoidance models typically describe chronic pain patients and perpetuate disability. ACOEM chapter 6 goes on to state, page 113 "Exposing patients to activities they fear as a way to reduce their pain-related fear can be a powerful intervention for chronic pain. A decline in pain related fear may reduce pain vigilance, resulting in a decline in reported pain intensity." The proposed biofeedback would not provide in vivo exposure to feared activities that purportedly generate pain.

The rationale for the opinions stated in this report are based on clinical experience and standards of care in the area as well as broadly accepted literature which includes 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 Professional Associates is deemed to be a Commission 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 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

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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 the dispute.

I hereby verify that a copy of this Independent Review Organization's decision was sent to the respondent, the requestor, DWC, and the patient via facsimile or U.S. Postal Service this day of 12/09/05 from the office of Professional Associates.

Sincerely,

Amanda Grimes
Secretary/General Counsel