



PROFESSIONAL ASSOCIATES

NOTICE OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-06-0802-01
NAME OF REQUESTOR: Vivek Kushwaha, M.D.
NAME OF PROVIDER: Vivek Kushwaha, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5288
DATE OF REPORT: 03/24/06

Dear Dr. Kushwaha:

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.

This case was reviewed by a physician reviewer who is Board Certified in the area of Orthopedic Surgery and is currently listed on the DWC Approved Doctor List.

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

M2-06-0802-01

Page Two

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:

Evaluations with Arthur L. Taitel, M.D. dated 03/04/03 and 03/05/03

Physical therapy with Christopher Chiavaroli, P.T. dated 03/04/03, 03/05/03, 03/06/03, 03/07/03, 03/11/03, 03/12/03, and 03/17/03

Evaluations with Martin Bloom, M.D. on 03/06/03, 03/11/03, and 03/21/03

Physical therapy with James Waugh, P.T. dated 03/10/03

MRIs of the cervical and lumbar spines interpreted by Andrew G. Varady, M.D. dated 03/17/03

An evaluation with Alfredo Huerta, M.D. dated 03/31/03

Evaluations with R. David Calvo, M.D. dated 04/07/03, 04/29/03, 05/16/03, 05/29/03, 06/12/03, 06/26/03, 07/17/03, 07/24/03, 07/31/03, 08/14/03, 09/10/03, 10/24/03, 11/18/03, 12/17/03, 01/07/04, 01/14/04, 01/21/04, 01/29/04, 02/12/04, 03/03/04, 04/23/04, 05/28/04, 06/14/04, 06/28/04, 07/27/04, 11/02/04, 12/13/04, 01/13/05, 02/03/05, 03/29/05, 04/05/05, 05/02/05, 09/01/05, 09/15/05, 11/16/05, 12/07/05, 01/04/06, 01/18/06, and 02/15/06

Physical therapy evaluations with Denise Cope, P.T. dated 04/15/03 and 08/04/03

Physical therapy with Ms. Cope dated 04/15/03, 04/17/03, 04/22/03, 04/23/03, 04/25/03, 04/28/03, 04/30/03, 05/02/03, 05/05/03, 05/07/03, 05/12/03, 05/14/03, 05/16/03, 05/19/03, 05/20/03, 05/21/03, 05/28/03, 05/29/03, 06/02/03, 06/03/03, 06/04/03, 06/09/03, 06/11/03, 06/13/03, 06/17/03, 06/18/03, 06/20/03, 08/04/03, 08/05/03, 08/06/03, 08/12/03, 08/13/03, and 08/14/03

Operative reports from S. Ali Mohamed, M.D. dated 05/08/03, 05/22/03, and 06/05/03

Evaluations with Susan Herdman, P.A.-C. for Dr. Calvo dated 05/29/03, 07/31/03, 08/14/03, 08/28/03, 09/10/03, 11/18/03, 12/03/03, 12/17/03, 01/07/04, 03/10/04, 03/30/04, 06/14/04, 07/27/04, 08/17/04, 09/07/04, 09/30/04, 11/02/04, 12/13/04, 01/13/05, 02/03/05, 02/24/05, 09/01/05, 09/15/05, 10/03/05, 10/18/05, 11/02/05, 11/16/05, 12/07/05, 01/04/06, 01/18/06, 02/15/06, and 03/02/06

An operative report with Dr. Shah Siddiqi (no credentials were listed) dated 07/24/03

A Required Medical Evaluation (RME) with James Hood, M.D. dated 10/28/03

Physical therapy evaluations with Stacy Kimpel, P.T. dated 01/08/04, 01/22/04, and 01/29/04

M2-06-0802-01

Page Three

A letter of approval from Intracorp dated 03/08/04
Evaluations with Amir S. Malik, M.D. dated 03/23/04 and 05/18/04
Letters of denial from Intracorp dated 04/01/04 and 06/14/04
Evaluations with Mark F. McDonnell, M.D. dated 07/20/04, 09/20/04, and 12/06/04
An operative report from Dr. McDonnell dated 10/12/04
An evaluation with Son K. Nguyen, M.D. dated 10/12/04
Handwritten and illegible notes from various providers (the signatures were illegible) on 10/12/04, 10/13/04, 10/14/04, 10/15/04, 10/16/04, 10/17/04, 10/18/04, and 10/19/04
An evaluation with George G. Burnazian, M.D. dated 10/14/04
Physical therapy with Regina K. Paschall, P.T. dated 01/18/05, 01/24/05, 01/26/05, 01/28/05, 02/01/05, 02/02/05, 02/07/05, 02/09/05, and 02/11/05
A Functional Capacity Evaluation (FCE) with Margarita N. Chan, L.P.T. dated 02/25/05
Work conditioning progress notes with Dr. Rafael Guerrero (no credentials were listed) and Chad Gasper, E.P. dated 03/25/05
An FCE with Melody Bugarin, L.P.T. dated 03/28/05
Evaluations with Rolando de Luna, P.A.-C. for Dr. Calvo dated 03/29/05, 04/05/05, 05/02/05, 06/02/05, 06/30/05, 08/04/05, and 10/18/05
TWCC-69 forms from Dr. Calvo dated 06/30/05 and 09/01/05
A prescription for Quinine Sulfate from Dr. Calvo dated 07/02/05
Physical therapy evaluations with Ms. Kimpel dated 09/13/05 and 10/20/05
An impairment rating evaluation with Howard Bernstein, M.D. dated 10/06/05
Evaluations with Vivek P. Kushwaha, M.D. dated 10/13/05, 10/27/05, and 11/10/05
A physical therapy discharge summary from Ms. Kimpel dated 11/16/05
Medication prescriptions from Dr. Calvo dated 12/13/05
Letters of denial from Intracorp dated 12/13/05, 01/11/06, and 02/23/06
A physical therapy evaluation with Andrew Harris, P.T. and Dr. Calvo dated 01/23/06
A letter of approval from Intracorp dated 01/23/06
Physical therapy with Mr. Harris dated 01/23/06, 01/24/06, 01/26/06, 01/30/06, 02/01/06, 02/02/06, 02/06/06, 02/08/06, 02/09/06, 02/13/06, and 02/14/06,
A physical therapy reevaluation with Mr. Harris dated 02/14/06

Clinical History Summarized:

Physical therapy was performed with Mr. Chiavaroli from 03/04/03 through 03/17/03 for a total of seven sessions. An MRI of the cervical spine interpreted by Dr. Varady on 03/17/03 revealed multilevel cervical spondylosis with a disc herniation at C3-C4 and C4-C5 that could affect the

M2-06-0802-01

Page Four

exiting C4 and C5 roots. There was also a disc bulge at C6-C7. The lumbar MRI from Dr. Varady on 03/17/03 revealed a disc bulge, foraminal narrowing, bilateral facet arthropathy, and degenerative change at L4-L5. Physical therapy was performed with Ms. Cope from 04/15/03 through 08/14/03 for a total of 33 sessions. Dr. Mohamed performed lumbar transforaminal selective epidural steroid injections (ESIs) and nerve root blocks on 05/08/03, 05/22/03, and 06/05/03. On 06/12/03, Dr. Calvo recommended a work up and Robaxin for back arthritis. Dr. Siddiqi performed a cervical ESI at C6-C7 on 07/24/03. On 10/24/03, Dr. Calvo recommended repeat MRIs of the cervical and lumbar spine. On 10/28/03, Dr. Hood felt the patient was not a surgical candidate and recommended possible cervical injections and a lumbar myelogram CT scan. Dr. Malik felt the patient was a candidate for lumbar surgery on 03/23/04. Ms. Herdman continued to recommend a repeat lumbar MRI and a second surgical opinion on 06/14/04. On 09/20/04, Dr. McDonnell recommended lumbar spine surgery, which was performed on 10/12/04. Physical therapy was performed with Ms. Paschall from 01/18/05 through 02/11/05 for a total of nine sessions. An FCE with Ms. Chan on 02/25/05 indicated the patient was functioning at the light-medium physical demand level and a work conditioning program was recommended. Work conditioning notes were provided for the week of 03/21/05 through 03/25/05. A discharge FCE with Ms. Brigarin on 03/28/05 determined the patient could function in the medium-heavy physical demand level. Dr. Calvo filed a TWCC-69 form on 06/30/05 and 09/01/05 stating the patient was not yet at Maximum Medical Improvement (MMI). On 10/06/05, Dr. Bernstein placed the patient at statutory MMI as of 05/19/05 with a 10% whole person impairment rating. A trigger point injection was performed by Mr. De Luna on 10/18/05. On 10/18/05, Ms. Herdman disagreed with the impairment rating given by Dr. Bernstein and felt he should have a 15% whole person impairment rating. On 10/27/05, possible further surgery was discussed with Dr. Kushwaha and the patient wanted to proceed on 11/10/05. On 12/13/05 and 01/11/06, Intracorp provided letters of denial for the surgery. Physical therapy was performed with Mr. Harris from 01/23/06 through 02/14/06 for a total of 11 sessions. On 02/23/06, Intracorp provided a letter of denial for further physical therapy. On 03/02/06, Ms. Herdman continued to recommend repeat lumbar surgery.

Disputed Services:

L4-L5 decompression and L4-S1 hardware removal

Decision:

I agree with the requestor. The L4-L5 decompression and L4-S1 hardware removal is reasonable and medically necessary.

M2-06-0802-01

Page Five

Rationale/Basis for Decision:

The patient underwent a surgical procedure as a result of his compensable injury. He has had residual symptoms that have been evaluated appropriately. On those imaging studies, it was noted that there has been neural foraminal narrowing in the spine, consistent with the patient's symptoms. Therefore, a decompression would be reasonable and necessary as a portion of treatment for the compensable injury. In order to foster the decompression, removal of the hardware and exploration of the fusion would be reasonable. In the event that a non-union was diagnosed, revision of the fusion would be necessary.

In conclusion, the proposed L4-L5 decompression and hardware removal at L4-S1 would be reasonable, necessary, and causally related to the original injury.

These recommendations have been based not only on the ACOEM Guidelines, Chapter 12, but also on The North American Spine Society Clinical Guidelines for Herniation Discs.

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 Division 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.

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

M2-06-0802-01

Page Six

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 03/24/06 from the office of Professional Associates.

Sincerely,

Lisa Christian
Secretary/General Counsel