



Specialty Independent Review Organization, Inc.

April 11, 2006

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

Patient: ____
DWC #: ____
MDR Tracking #: M2-06-0949-01
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 Medical Doctor with a specialty in Anesthesia and Pain Management. 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

According to the medical records, the patient was injured on ____ while working as a sheetrock installer for CRM Construction. The day of the accident the patient was working on a roof when he lost his balance and grabbed hold of a co-worker to keep himself from falling. He reported that he fell on the ground and his co-worker fell on top of him. He reported the accident to his supervisor on the date of the injury. He was taken to the emergency room in an ambulance. He was given X-Rays, medication, and told to go back to work in 1 week. He was taken to the company doctor at Concentra on 01-19-05 and returned to work on light duty. He then started physical therapy for three weeks and given medication. He was given X-Rays on 01-28-05, with no fractures. He then sought Dr Subia's care on 02-01-05. An MRI of the Lumbar Spine

performed on 03-09-05 showed a 5-mm herniation at L5-S1 that effaces the ventral epidural space between the descending S1 root sleeves and touches the ventral margin of the techal sac. The patient underwent injection therapy on 05-13-05 and 06-10-05. On 08-31-05 underwent Radiofrequency nerve ablation on 08-31-05. He also participated in Biofeedback and Psychotherapy sessions He has received physical Rehabilitation with exercise, electrical stimulation, and vertebral axial decompression.

RECORDS REVIEWED

General Records: Notification of IRO Assignment dated 03-22-06; Receipt of MDR Request dated 02-28-06; MDR Request dated 02-28-06; Initial Pre-Authorization Denial dated 01-04-06; Reconsideration Pre-Authorization Denial dated 01-30-06

Records from the carrier: Initial Pre-Authorization Denial dated 01-04-06; Summary of Carrier's Position; Letter of approval from carrier for biofeedback training one time a week for 6 weeks dated 04-26-05; Letter of approval from carrier for individual therapy/biofeedback 1x weekx 6 weeks; Biofeedback notes dated 05-05-05, 05-23-05, 06-03-05, 06-06-05, 06-20-05, 07-11-05, 07-18-05, 07-25-05; Follow up notes from Marivel C. Subia, DC dated 06-22-05, 06-27-05, 10-26-05, 11-01-05, 12-29-05, 01-09-06, 01-20-06, 01-26-06, 01-31-06; Initial evaluation note from Active Behavioral health and pain Rehab dated 01-24-05; Re-evaluation note from Active Behavioral Health and Rehab dated 09-15-05; Follow up notes from Andrew B. Small, III, M.D. dated 06-09-05, 06-21-05, 07-05-05, 07-14-05, 07-21-05, 09-01-05, 09-13-05, 09-20-05, 09-27-05, 10-18-05, 10-24-05, 11-10-05, 11-15-05, 11-17-05, 12-01-05, 12-13-05, 12-29-05, 01-26-06; Ergos Evaluation report dated 11-03-05, 12-06-05; Operative Report Right L3, L4, L5 and S1 medial branch nerve blocks dated 06-10-05; Operative Report Right L3, L4, L5, S1; Radiofrequency ablation dated 08-31-05; Progress notes Steve Eaton, M.D. dated 08-25-05, 09-15-05; Karl D. Erwin, M.D. Report dated 05-17-05.

Records from the doctor: Notification of IRO Assignment dated 03-22-06; Receipt of MDR Request dated 02-28-06; Request for Chronic Pain Management Denial dated 01-04-06; Reconsideration Pre-Authorization Denial dated 01-30-06; Online label Record dated 02-21-06; Alta/Atlantis Healthcare Clinic demographic note dated 12-06-05; Active behavioral health and pain rehab preauthorization request dated 12-30-05; Referral form to chronic pain management by Dr Subia dated 11-22-05; Progress notes from Andrew B. Small, III, M.D. dated 03-09-05, 03-16-05, 08-04-05, 09-20-05, 09-27-05, 10-18-05, 10-24-05, 11-10-05, 11-15-05, 11-17-05, 12-01-05, 12-13-05, 12-29-05, 01-26-06; Chronic Pain Management summary request dated 12-30-05; Reconsideration: Behavioral Health Preauthorization request dated 01-24-06; Behavioral medicine Re-Assessment dated 01-25-06; Ergos Evaluation Summary Report FCE dated 12-06-05; Operative Report Right L3, L4, L5, S1 median branch nerve block dated 06-10-05; Operative Report Right L3, L4, L5, S1 Radiofrequency Ablation dated 08-31-05; Follow up notes from Dr Subia dated 03-29-06; UPS Delivery Confirmation Receipt dated 03-22-06.

REQUESTED SERVICE

The item in dispute is the prospective medical necessity of chronic pain management (97799) for 20 sessions.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

The reviewer states that there are many factors to consider when regarding this type of chronic pain program. Among these factors, the most important would be patient benefit. There is no doubt as to the patient's work injury or the chronicity of his injury. There is however significant doubt that this type of chronic pain management program would benefit Mr. ___ at this stage in his treatment. The treatment plan delineated by Active Behavioral Health and pain Rehab includes the following interventions: Medication Management, Individual Psychotherapy, Vocational counseling, and Educational group Therapy, Biofeedback Training. Stress management and relaxation groups, individual therapy, nutrition education, medication management, vocational counseling and physical activity. From a theoretical point of view, these goals would certainly benefit the patient; however, from a clinical standpoint, his limited progress and responses to date indicate that he would have a poor outcome from this type of treatment. He has presented a negative response to physical therapy and individual sessions in the past. The patient has reported adequate control of pain with his current medications and Dr. Small has not reported any problems with his current dose.

In reference to the requested chronic pain management program, it is not medically necessary at this time. According to standard medical practices, such psychological programs are reserved for patients at a tertiary level of treatment. This corresponds to patients who have undergone all possible conservative treatment and indicated interventional treatment and continue with significant pain behavior beyond their pain. Mr. ___ has not reached a tertiary level of care. Sufficient documentation was not provided to confirm that the patient has reached a tertiary level of care.

This type of chronic pain management program is reserved for patients that present with a physically chronic pain condition and are in need of secondary coping mechanisms for a physical condition that cannot be improved. This is not the case for Mr. ___. He is not a surgical candidate.

The patient is still in need of medical treatment to reduce pain generation and provide adequate pain control before simply deciding that he presents with a chronic pain syndrome. The patient has even referred excellent pain relief after his Radiofrequency. A patient that has significant psychosocial barriers would probably not refer such significant pain relief after a procedure.

Nonetheless, it does seem that the patient has developed depressive symptoms possibly due to poorly managed pain during a one-year lapse. There is not any reference to pre-existing depression treatment or psychiatric treatment, if this is so then this would be a pre-existing condition.

At this time, the reviewer does not think that options for medical treatment have been exhausted and his current complaints could be managed well with further anti-depressant treatment while he continues his medical treatment plan. A chronic pain program is premature at this time, that this is further confirmed by his lack of response to the individual psychotherapy sessions. If the patient is still in need of medical treatment, medication or otherwise, psychological treatment is unlikely to be of any significant benefit and is not medically indicated at this time.

References

(1) Albright, et al (including Philadelphia and Ottawa Panel Members). Philadelphia Panel Evidence-Based Clinical Practice Guideline on Selected Rehabilitation Interventions for Low Back Pain. *Physical Therapy*. 81(10). Oct. 2001.

(2) Effects of Noradrenergic and Serotonergic Antidepressants on Chronic Low Back Pain Intensity. Atkinson JH, Slater MA, Wahlgren DR, et al. *Pain*. 1999; 83(2): 137-45.

(3) Co morbid Psychiatric Disorders and Predictors of Pain Management Program Success in Patients with Chronic Pain. Workman EA, Hubbard JR, Felker BL. (Records supplied by publisher). Aug 2002. 4(4) p. 137-140.

(4) American Academy of Pain Management Guidelines.

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 11th day of April 2006

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli