THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: 453-05-9363.M5

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: ( ) HCP (X) IE ( ) IC	**Response Timely Filed?** ( ) Yes (X) No
Requestor=s Name and Address	MDR Tracking No.: M5-05-2700-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Employers Mutual Casualty Company Box 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: SUMMARY OF DISPUTE AND FINDINGS

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
08-02-04	03-03-05	Androgel Pak 1% and Vicodin	☐ Yes ☒ No

PART III: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The Division has reviewed the enclosed IRO decision and determined that the requestor did **not** prevail on the disputed medical necessity issues.

Ombudsman Assistance: An unrepresented injured worker may be assisted by a Commission Ombudsman at the State Office of Administrative Hearings. To request Ombudsman assistance please call 512.804.4176 or 1.800.372.7713 ext 4176.

Asistencia por parte del Ombudsman: Un trabajador lesionado peude obtener asistencia por parte de un Ombudsman de la Comision en un procedimiento ante la Oficina Estatal de Audiencias Administrativas (sigla SOAH). Para pedir asistencia de un Ombudsman, favor de llamar a 512.804.4176 o al 1.800.372.7713.

PART IV: COMMISSION DECISION

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute.

Findings and Decision by:

		08-09-05
Authorized Signature		Date of Decision

PART V: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: _____ Date: _____

PART VI: 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. Those who wish to appeal decisions that were issued during the month of August 2005, should be aware of changes to the appeals process which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas 78744 or faxed to 512-804-4011. A copy of this Decision should be attached to the request.

Beginning September 1, 2005, appeals of medical dispute resolution orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005). 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.

Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

7600 Chevy Chase, Suite 400
Austin, Texas 78752
Phone: (512) 371-8100
Fax: (800) 580-3123

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 8, 2005

To The Attention Of: TWCC
7551 Metro Center Drive, Suite 100, MS-48
Austin, TX 78744-1609

RE: Injured Worker: ___
MDR Tracking #: M5-05-2700-01
IRO Certificate #: IRO 5263

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, 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 was reviewed.

The independent review was performed by an Orthopedic reviewer (who is board certified in orthopedic surgery) who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- None provided

Submitted by Respondent:

- Medication list and charges for Vicodin and AndroGel
- IME dated 2-11-05 by Kenneth Rosenzweig, MD
- Records from James Hood, MD
- PRME Decision

Clinical History

This is a 63-year-old male who injured his low back on ___ while assisting a falling patient at . He continued working post fall, but his pain progressed, and he eventually underwent discectomy and fusion at L4-5 for an extruded disc to the left at L4. About six months post surgery his pain gradually returned radiating to the left lower extremity. He presently does not work and tours the country in an RV. His medications include Vicodin for pain and AndroGel for low testosterone.

Dr. Rosenzweig's IME indicates he is also takes OxyContin 40 mgs two times per day for pain. Dr. Rosenzweig's IME on 2-11-05 also indicates a normal neurologic examination and full range of motion in the lumbar spine. In other words, his back examination was normal. The IME also states there was a nerve study performed in FL which the claimant states proves the relationship between the sexual dysfunction and his work injury, however, the nerve tests are apparently normal, therefore, the claimant's understanding of this test is in error. In fact, the IME states that the claimant's hypogonadism is secondary to the testosterone supplementation. Also enclosed is a PRME decision that the medication is not medically necessary for the compensable work injury.

Requested Service(s)

Prescriptions for AndroGel Pak 1% and Vicodin from 8-2-04 to 3-3-05

Decision

I agree with the insurance carrier that the above medications are not medically necessary.

Rationale/Basis for Decision

There are no neurologic deficits in his records that would explain hypogonadism based on his back injury or surgery. The onset of his problem preceded his chronic narcotic usage and so is not related to it. He is presently on OxyContin according to Dr. Rosenzweig's IME on 2-11-05, so additional Vicodin would not be indicated. If further information is needed as to the etiology of his hypogonadism, then evaluation by an endocrinologist and/or urologist would be helpful. The above opinion is within reasonable medical probability.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 8th day of August 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder