

October 16, 2002

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M2 03 0124 01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an 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 Doctor of Chiropractic. The ___ 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 ___ 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

___ was injured on his job with ___ and was diagnosed with a lumbar sprain/strain. MRI later displayed the presence of disc bulges at L4/5 and L5/S1. NCV was negative for a radiculopathy. There was some disc dessication at both levels, indicating a degenerative process. He was treated aggressively with chiropractic, passive modalities and active rehabilitation to include work hardening. OSWESTRY testing from November 5, 2001 indicated a rating of 25%, which stated that "this group experiences more pain and problems with sitting, lifting and standing." On January 18, 2002, the patient was rated at 18% OSWESTRY, which is a minimal disability in which the patient is able to cope with most living activities.

___ was found to not be a surgical candidate for the lumbar spine injury and was placed at maximum medical improvement as of March 4, 2002 by ___. The MMI and impairment rating were both approved by the treating doctor, ___. However, the treating doctor's letter of medical necessity states that the patient has not returned to his previous work level, even after the work hardening program. The patient underwent a Psychological Interview by ___ and ___. The records indicate that the patient was

referred to ___ in November of 2001. Facet injections and ESI were recommended, but no record can be found that these treatments were rendered. The carrier's position is that a psychological treatment program is not reasonable until the available treatment for this patient is exhausted.

REQUESTED SERVICE

Psychological Assessment and Psychological Profile Assessment (PPA)

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

While the presence of a MMI is not an indicator of whether treatment is necessary on a case, it is troubling that this patient was placed at MMI with 5% impairment in spite of apparently not having undergone the recommended treatment by ____. Facet injections and ESI therapy would likely have helped this patient's pain. I will point out that there is not an indication from the minimal psychological notes in the Work Hardening program which would indicate that this patient was, indeed, in distress. The first sign of such distress comes from the psychological interview performed by the requestor on this patient.

OSWESTRY scores indicate that this patient's pain disability was minimal in January of 2002. The pain in November was certainly not a disabling factor, from the documentation presented. There is no documentation that there is any re-injury or exacerbation which would cause a significantly increased level of pain in this patient after the date of MMI.

While the carrier's implied position that all treatment should be exhausted before psychological intervention is debatable, I do agree that reasonable treatment should be attempted before it is assumed that psychological assessment would either be reasonable or an accurate assessment of patient need.

As an officer of ____, I certify that there is no known conflict between the reviewer, ____ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

____ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective *spinal surgery* decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within 10 days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other *prospective (preauthorization) medical necessity* disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(t)(2).