

February 27, 2003

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

MDR Tracking #: M2-03-0583-01
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.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in Occupational Medicine. 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

___ is a 54-year-old gentleman who injured his left knee while working for an outside advertising company. His injury occurred when he stepped over a fence, tripped, and fell. He landed on the right wrist, although he stated that the right wrist no longer was hurting. He also landed on both knees. The right knee had no complaints but the left knee continued to bother him. He was noticing some popping and catching to the left knee and he had medial joint pain. He was taking Naprosyn.

___ underwent surgery by ___ on 8/2/02. Postoperatively he was continued on medications and underwent physical therapy. He was released to light duty work on 8/19/02 and was returned to regular work on 9/26/02. However, ___ continued with complaints to the left knee, including pain, an inability to twist on the knee, and difficulty with climbing stairs. Therefore, ___ changed the medication to Mobic and ordered an OA adjuster brace for the left knee, which was not preauthorized by the insurance carrier.

REQUESTED SERVICE

On OA adjustor brace for the left knee is requested for ____.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

Review of the records show that ____ physician advisor did not authorize the requested purchase of the OA brace for the left knee. The physician advisor stated that the primary purpose of this device appeared to be for arthritis, which was not related to the work injury of the meniscus. He stated that the diagnosis of arthritis was a pre-existing condition.

The American Medical Association Guides to the Evaluation of Permanent Impairment, third edition, second printing, February 1989, does allow for arthritis due to any etiology, including trauma and chondromalacia. This is noted on Table 36, Impairment Ratings of the Lower Extremity From Other Disorders of the Knee, on page 61. The American Medical Association Guides to the Evaluation of Permanent Impairment, fourth edition, June 1993, fourth printing, October 1999 also has a section related to arthritis which is in Chapter 3, The Musculoskeletal System. Sections 3.2g (Arthritis) addresses arthritis. Therefore, the American Medical Association Guides third and fourth editions do allow for arthritis and chondromalacia. Since ____ did have surgery to the left knee, not only for the meniscal tears but also for chondromalacia, and because the OA brace is intended to unload the knee joint so that ____ can improve his complaints from the injury to the left knee and allow him to continue to do regular work, based on the above, there is documentation for the medical necessity of the OA adjustor brace for the left knee.

____ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ____ has made no determinations regarding benefits available under the injured employee's policy.

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).

I hereby certify, in accordance with TWCC 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 TWCC via facsimile, U.S. Postal Service or both on this 27th day of February 2003.