

October 22, 2003

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TWCC Medical Dispute Resolution
MS-48
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MDR Tracking #: M2-04-0106-01
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 in Occupational Medicine. The reviewer is on the TWCC Approved Doctor List (ADL). 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 33-year-old gentleman injured on ___. On his date of injury, a wooden crate fell and hit his left ankle. He sustained a displaced fracture of the left os calcis and soft tissue injury and a meniscal tear of the left knee.

The patient saw a medical doctor who referred him to ___, an orthopedic surgeon. ___ counseled ___ on treatments and the patient apparently did not want surgery. Therefore, it was elected to treat him conservatively. For the left knee, he underwent arthroscopic surgery on 3/12/03. The findings included chondromalacia of the medial femoral condyl and a tear of the medial meniscus.

___ was treated with medications and physical therapy. Appropriate follow-up x-rays were done. He was treated with progressive weight bearing with crutches and then without crutches.

After physical therapy, he underwent a Functional Capacity Evaluation (FCE). The report showed that the left knee and ankle showed decreased range of motion, decreased strength, decreased endurance, and decreased lifting capacity. The proposed program was to consist of strengthening exercises, stretching exercises, and endurance exercises to address his deficits. He would also be doing work-simulated activities to address his biomechanics and endurance to repetitive

movement. He would also be seen by a psychologist and vocational counselor to address the psychological and vocational aspects. It should be noted that the initial FCE showed that his job demand level was HEAVY, while the testing showed that he was able to function at a LIGHT physical demand level.

A follow-up FCE dated 9/4/03 showed that his job demand level was HEAVY and he was now able to work at a MEDIUM work category.

The CT scan of the left foot done on 6/19/03 showed that there had been significant healing of the calcaneal fracture, although the fracture line was still present so the fracture had not completely healed. There was significant surrounding periarticular osteopenia identified consistent with disuse.

REQUESTED SERVICE

Additional work hardening (5x a week for 4 weeks) is requested for this patient.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

___ report of 8/23/03 states that this patient, despite ___' counseling, elected non-operative care which ___ carried out. ___ states that, if this is in fact true, ___ denial of operative treatment, in his opinion, constitutes a failure to comply with best surgical practices at the point and time the injury occurred. He states that most calcaneal fractures that are treated non-operatively heal in six to ten weeks and pain resolves to a tolerable level after twelve to eighteen months. The surgical protocols for treatment of calcaneal fracture by open reduction and internal fixation have been established at several trauma centers and they have reported far better results with this technique than with non-operative treatment. He points out that the amount of function that can be anticipated is directly related to several factors. He states that objective imaging studies appear to reveal that some of these factors have not been met and that, as such, the kind and type of healing may adversely affect ___ ability to function in the future.

Although ___ statements are correct, it should be noted that, under TWCC, the patient is the one who decides what treatment he or she wants to receive. ___ elected non-operative treatment and treatment to have him heal as best as possible would then have to be undertaken.

___ was treated with casting for the calcaneal fracture to the left ankle, had arthroscopy for the findings to the left knee, and was treated with medications and with physical therapy. The FCE done on June 4, 2003 showed that he had deficits and appropriate recommendations were made for a work hardening program.

Four weeks of work hardening were apparently pre-authorized by the insurance carrier based on advice by the physician advisor. This patient did undergo four weeks of work hardening and the follow-up FCE of September 4, 2003 showed that he had gone from a light PDC level to a MEDIUM PDC level, which was improvement.

Since the goal of any treatment, whether an individual denies the best optimum care or not, is to have that individual return to his pre-injury level, in this case the patient was treated appropriately with medications, arthroscopy to the left knee, and non-operative care for the fracture to the left calcaneus. By the notes reviewed, he improved. Even though he did not meet the HEAVY PDC level on the follow-up FCE done on 9/4/03, he had improved. Therefore, after four weeks of work hardening which did help him, no further work hardening would be recommended since any further work hardening would not be of benefit.

It should be noted that ___ report of 8/23/03 states that most calcaneal fractures that are treated non-operatively heal in six to ten weeks. However, the CT scan of the left foot done on 6/19/03 showed that the fracture had not yet healed completely. The CT scan was done approximately five months after his injury, approximately 20 weeks after his injury.

Therefore, based on the above information, the reviewer finds that though the first four weeks of work hardening were reasonable and necessary, and any work hardening beyond that initial four weeks is not recommended.

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

If disputing a spinal surgery prospective decision, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (preauthorization) decisions, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk
P.O. Box 17787
Austin, Texas 78744
Fax: 512-804-4011

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

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 23rd day of October 2003.