

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-04-1641.M2

November 12, 2003

David Martinez
TWCC Medical Dispute Resolution
MS-48
7551 Metro Center Drive, Suite 100
Austin, TX 78744-1609

MDR Tracking #: M2-04-0296-01
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 Physical Medicine and Rehabilitation. 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 35-year-old woman who is status post-crush injury to her left peroneal nerve, an injury that occurred on ___. She subsequently developed very severe complex regional pain syndrome type II with severe spasm and shortening of the Achilles tendon and dysfunction of the left leg secondary to chronic pan. She had a spinal cord stimulator inserted and had some relief, but continued to have dysfunction of the leg, secondary to Achilles tendon shortening and gastronemius spasm. She was placed in the hospital and an epidural catheter was inserted to control her pain.

On December 12, 2002 ___ had a sympathetic block. While hospitalized she obtained aqua therapy, and she was noted that she had decreased pain associated with using that therapy. She was able to decrease her medications and decrease pain medicines. She then underwent lumbar sympathetic ganglion rizotomy with whirlpool treatments. She was gradually progressed with therapy with whirlpool. She improved gradually over the course of the succeeding months. Her treating doctors documented on several occasions decreased use of pain, increased symptom relief and increased functional ability. A whirlpool hot tub at her home was recommended, as it is recommended that she have therapy in the whirlpool as often as five times a day. The carrier has denied request for the in-home whirlpool, stating there was lack of objective clinical findings to justify the purchase of the requested item. ___ stated a hot shower would work as well. Her treating doctor, ___, disagrees and continues to request a whirlpool hot tub for this patient.

REQUESTED SERVICE

The purchase of a Home Hot Tub is requested for this patient.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

Throughout her treatment, this patient has responded to hot whirlpool treatment. She continues to have a functional response with the whirlpool. The reviewer finds that the use of the whirlpool is clinically indicated for the standard of medical care for this individual.

___ 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 12th day of November 2003.