

January 23, 2004

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TWCC Medical Dispute Resolution
MS-48
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MDR Tracking #: M2-04-0669-01
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 Orthopaedic Surgery. 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

The history starts on June 11, 2003 when the patient was under the care of ___, who documented that the patient required a re-exploration of the L4-5 inner space, due to right L5 radiculopathy. A procedure was performed 6/11/03, and the findings at the time of surgery revealed the L5 nerve root compressed by a bone spur, and a decompression was carried out. A follow-up note available for perusal is a clinic note dated 8/12/03 in which ___ reports that the patient had severe lower extremity pain, and upon re-exploration her pain has improved. The patient was still weak and still had trouble walking, otherwise was doing ok. ___ prescribed physical therapy. The final note from ___, the surgeon, is dated 10/21/03 in which he reported that the chief complaint was status-post lumbar decompression. Her symptoms had improved dramatically, but she still had some residual numbness, but nothing disabling. ___ reported that the lower extremity function was grossly intact and recommended Orthopaedic shoes and re-evaluate in eight weeks. The only other clinic note available for perusal is a consultation by ___ dated 6/13/03, who documented that the patient was a 46 year old female patient of ___'s and ___ who was admitted for surgery, L4-5 laminectomy, for radiculopathy and spondylosis. The patient had previous surgery by ___ and been under the care of ___. She had been on morphine for quite some time and was admitted for an opinion on her pain medicine. The findings of her medication included MS Contin 100 milligrams every 8 hours, Morphine Sulfate immediate release 30 milligrams every 4 to 6 hours. His findings were an obese female in no acute distress, no obvious over-medication.

His impression was lumbar spondylosis, radiculopathy, recurrent low back pain. He recommended continuing with medication for the patient had been stable on this for quite some time and follow up with _____. There are no other medical records available for perusal, other than forms submitted by RS Medical regarding a rental of the device on 8/26/03 for low back pain, and a prescription for a purchase was then submitted on 10/27/03. A letter dated 10/17/03 is a boilerplate-type note signed by _____ that is not on letterhead but is typical wording as submitted for this device. In addition to the information was documentation from the smart card that the patient had used the device on multiple occasions throughout the month of September and the end of August.

REQUESTED SERVICE

The purchase of an RS-4i interferential and muscle stimulator is requested for this patient.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The rationale for the decision involves the following concept: the treating physicians at the time of this request, _____ and _____ did not mention that this device was being prescribed, did not mention that this device was being used, and did not discuss the outcome of this device's utilization. There is no information regarding this device allowing increased activities. There is no information regarding this device allowing decreased medication. The initial utilization review denial was based on the fact that the patient had surgery and had improvement, and therefore questioned the medical necessity for purchase of this device for long-term use. A reconsideration submitted by another physician suggested that a TENS unit may be appropriate. Interferential is not appropriate in that the device in concept is not medically necessary but an elective adjunct to treatment.

The literature does not support long-term utilization of electrical stimulation, although anecdotally a TENS unit does have efficacy for certain individuals. In review of the Philadelphia Panel and evidenced-based clinical practice guidelines for musculoskeletal conditions, the only adjunct that has proven to have long-term benefit is an exercise program. In fact a TENS unit is proven to have no benefit demonstrated at all in regard to electrical stimulation, there is insufficient data or no data that this was effective.

To recapitulate this request is for the purchase of an electrical stimulator device that is a combination of a TENS unit and interferential treatment for chronic back pain for an unknown date of injury in a patient who has undergone two surgeries. The patient has been on 'high dose narcotics for quite some time.' There is no discussion among treating physicians that this device was prescribed, and/or the efficacy of this device to substantiate the medical necessity of a purchase. The literature does not support the purchase of this device in regard to evidence-based medicine, however it is not reasonable to withhold treatment based on generalization. It is reasonable to offer real opinions on an individual basis. In this particular case, there is no mention in the clinical documentation submitted for perusal that a physician actually prescribed this device knowingly and/or discussed this device being used, or the efficacy of this device.

_____ 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, patient (and/or the patient's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 23rd day of January 2004.