

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

SOAH DOCKET NO. 453-04-5114.M2

March 29, 2004

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

MDR Tracking #: M2-04-0895-01
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 board certified and specialized in Orthopedic 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

This is a request to purchase an RS4 Medical Device for use for chronic low back pain in a claimant who sustained an injury ____. The MRI did not show any significant pathology, it did reveal a horizontal sacrum that may predispose the mechanical back pain, but clearly no surgical condition. A variety of conservative care management modalities were attempted and RS4 Medical Device was reported to have the most efficacy. In an attempt for purchase a denial was submitted by ___ with the physician advisors opinion that the patients use of a home exercise program and rehab in general was not discussed. The requesting physician referred to medication issues. These types of devices have not been adequately studied to warrant long-term use as noted by ___, therefore the device

does not appear to be medically necessary. An initial preauthorization opinion suggested that the unit can help decrease disuse atrophy and promote muscle reeducation, however there wasn't any data that showed that the unit definitively decreased the need for prescription medication and therefore the medical necessity was not established.

Another opinion reported that treatment plan for one month was approved because of the benefit from use, however the literature did not support the use of this device for greater than two months, and therefore would not authorize further than that.

Worksheets report that the claimant has severe chronic low back pain and spasms and the attending physician reports that the pain and spasms were reduced by the use of the stimulator. A hand written letter that appears to be a patient affidavit stating that the stimulator made a significant, positive difference in the area of pain management, that the claimant was using it at least twice a day allowing her to improve her activity level. Included in the records for perusal are the Smart Card readings, the data that shows utilization both in frequency and duration and it reveals that this device was used extensively on a daily basis, confirming utilization in frequency and duration as claimed.

REQUESTED SERVICE

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

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The request for a purchase for indefinite use of the RS4i Medical Device is typically not approved for long term use for the studies do not support the medical necessity of electrical stimulation or interferential for chronic pain, however in the spirit of preauthorization reviews and independent reviews, general information is incorporated into individual cases to help determine for all parties what appears to be the most appropriate and reasonable, taking the latitude to assume and account for exceptions to the rule and therefore, (contrary to the standard position of this device), it is recommended to overrule the preauthorization opinions and approve this request as an exception in this case.

Although the evidenced based medicine studies, including Cochran's Collaboration and Philadelphia Panel do not show the medical necessity of the long term use of this type of device, these arguments are often used and should be used to defend the utilization and over-utilization of equipment that may or may not be efficacious as advertised. In this case this claimant does not have significant pathoanatomy. She is reporting chronic low

back pain, and she is determined not to be a surgical candidate. The extent of conservative care in regard to exercise program is not outlined, and the benefits of this device utilization in this claimant most likely is placebo.

Nevertheless, this device has been documented to be an advantage over her medication use. Smart Card entries show that the claimant has used this device extensively as advertised, both in frequency and duration and the appearance of an affidavit from the user herself regarding the efficacy.

Therefore the rationale for the favorable decision in this case is that this claimant uses the device extensively as an alternative to the pain medication and was found to be more efficacious than a pain management program and even though the device may be placebo and the results in this case are anecdotal (irregardless of the means) it appears that the desired outcome (end) has been achieved and therefore the exception to the rule is offered to approve this request.

___ 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 29th day of March 2004.