

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:  
SOAH DOCKET NO. 453-05-0537.M2**

**NOTICE OF INDEPENDENT REVIEW DETERMINATION**

MDR Tracking Number: M2-04-1540-01  
IRO Certificate Number: 5259

August 9, 2004

An independent review of the above-referenced case has been completed by a medical physician board certified in physical medicine and rehabilitation. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_.

CLINICAL HISTORY

This is a 49 year old lady who reportedly fell 3½ feet sustaining an injury to the shoulder, cervical and lumbar spine. The shoulder was surgically treated. The cervical spine injury and lumbar spine injury were treated conservatively. After the date of injury there was a marked weight gain. Eventually there was a request for a pain management program and the initial 10 days were approved. There was no identification or objectification of any positive changes or

positive response to treatment. Moreover, the goals identified were unrealistic and not measured even on an interim basis.

REQUESTED SERVICE(S)

20 sessions of chronic pain management (5x a week for 4 weeks).

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

There is no objective medical evidence that the additional 20 days were clinically indicated or reasonable and necessary care for the soft tissue myofascial strain. Nationally published standards for entrance to CPMP include identification of realistic and individualized goals as part of the overall CPMP. The goals identified for this lady were not realistic, individualized or remotely indicated to be on track for being met within the first 10 days of this protocol. The first goal was noted to be "Cognitive reconstruction". There was no indication of a head or traumatic brain injury. How could this be reasonable and necessary care of a slight soft tissue in this morbidly obese lady? The second goal noted was to change the pessimistic and fatalistic attitude of the claimant. Such a change in the personality of an individual such as this would not be achieved in the limited group therapy of 20 sessions. Further, the claimant has demonstrative counter productive behaviors that this is not a reasonable or realistic goal. Excessive complaints of pain, when the lumbar region was lightly touched, were noted by three different evaluators of the lumbar spine. Noting the body habitus, 5'1 350 pounds, to begin to palpate the lumbar musculature in the face of that amount of adipose tissue would take more than light touch. Clearly there were issues of symptom magnification confusing the clinical situation. Another goal was to incorporate physical exercise into a daily habit. There are no records reviewed that any physical activity was attempted. The FCE noted marginal if any real effort. Acceptance of the chronic pain as a goal only serves to provide an excuse in this lady who seeks to expand the compensable diagnosis to her cardiac malady and blurry vision. Noting the reported mechanism of injury and the date of occurrence of these complaints only leads one to believe that there is an alternative agenda on the part of the claimant, supported by those she chose to care for her.

Another nationally published goal for entrance into CPMP is a likelihood of success. That issue was not addressed in the initial evaluation. Moreover, even failing to apply that standard, there was a 10 day trial and there was no indication that an additional 20 would accomplish any more. This is demonstrated that after the initial 10 days there was an increased weight gain and not objectification that the claimant was following any of the training or modalities already presented in the first 10 days. Given that she was determined to be at maximum medical improvement, and that the Designated Doctor noted no real pathology in the cervical or lumbar spine and the complaints appears to be focused on the lumbar spine injury; this fails to meet the standards for a CPMP.

In summary, noting that there never appeared to be any chance of success, this was demonstrated by the complete failure of the first 10 of CPMP. Noting the changes and failure to follow specific training afterward indicates that the claimant was not as earnest as she needed to be in entering this program. Simply because it is there does not mean that the program has to be used.

## 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.

**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 (20 Tex. Admin. Code 142.5©).

**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 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk  
Texas Workers' Compensation Commission  
P.O. Box 17787  
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

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

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 10th day of August 2004.