

10/27/2004

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

MDR Tracking #: M2-05-0135-01
IRO #: 5284

___ 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.

This case was reviewed by a licensed Chiropractor. The reviewer is on the TWCC 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

___ was injured on ___ while working for ___ when unloading furniture. He saw ___ for his injuries and rehabilitative therapies and chiropractic manipulations were performed from 04/12/2003 through 08/05/2004. ___ has been labeled as totally disabled the entire course of treatment. MRI of the lumbar spine demonstrated L4-5 disc herniation with partial desiccation and 20% loss of disc height. ___ was referred to ___ who initially recommended a series of lumbar ESI's on 05/27/2003. These were not completed until 11/26/2003, 01/29/2004, and 04/01/2004 by ___, apparently complicated by patient's diabetes. Lumbar facet injection followed on 06/24/2004. Review of the records indicates that ___'s pain did not change from 4/10 throughout course of treatment. FCE's were performed on 12/03/2003 and 06/28/2004 that demonstrated lack of significant improvement despite 16 months of rehabilitative therapies. Additionally, the FCE reportedly completed on 06/28/2004 occurred on three different dates, 06/28/2004, 07/06/2004 and 07/26/2004. ___ also saw ___ for orthopedic surgical evaluation. ___ recommended an EMG. EMG demonstrated bilateral L5 radiculopathy. ___ had also recommended work hardening for return to work given that injections did not help and ___ is

refusing any further interventional procedures. ___ was evaluated by ___ and diagnosed with chronic pain syndrome, anxiety and depression associated with health concerns.

REQUESTED SERVICE

Requested services include a six week work hardening program.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

___ has had approximately 16 months of active rehabilitation and continues to have lumbar radiculopathy with unchanged pain levels since the onset of treatment. Having failed all previous conservative measures and patient's refusal to participate in further interventional procedures, work hardening would not be indicated as the outcome is not expected to be favorable if a lower level of care was not beneficial to the patient. The orthopedic surgeon had initially recommended surgery as a possible outcome but with that being rejected by ___, work hardening would still not be appropriate. This intensity of care is not reasonable with the findings presented on EMG correlated with disc desiccation on MRI. It is not expected that this patient will be able return to work heavy duty upon completion work hardening considering he has never been returned to light or transitional duty and has remained 100% disabled throughout the course of treatment over 16 months. Guidelines supportive of this recommendation are the Council of Chiropractic Physiological Therapeutics & Rehabilitation Guidelines and Texas Labor Code 408.021 with respect to indications for work hardening.

___ 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. ___ believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

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.

Sincerely,

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.

In the case of prospective *spinal surgery* decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other *prospective (preauthorization) medical necessity* disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) 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 (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 17787, Austin, TX 78744. The fax number is 512-804-4011. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(u)(2).

Sincerely,

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 28th day of October, 2004