

MCMC

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

SOAH DOCKET NO. 453-05-3138.M2

IRO Medical Dispute Resolution M2 Prospective Pre-Authorization IRO Denial Notification Letter

Date: 11/29/2004
Injured Employee:
MDR #: M2-05-0149-01
TWCC #
MCMC Certification #: 5294

Requested Service: Shoulder surgery

MCMC llc (MCMC) is an Independent Review Organization (IRO) that has been selected by The Texas Workers' Compensation Commission (TWCC) to render a recommendation regarding the medical necessity of the above requested service.

Please be advised that a MCMC Physician Advisor has determined that your request for M2 Prospective Medical Dispute Resolution on 11/27/2004 concerning the medical necessity of the above requested service is hereby Denied based on:

TEXAS WORKERS' COMPENSATION COMMISSION (TWCC) referral form and submitted clinical highlights. Notification of IRO assignment, dated 10/14/2004. TWCC receipt of request notification, dated 10/14/2004. IRO notification letter (MCMC), dated 10/21/2004. IRO acknowledgment and Invoice notification letter, dated 10/14/2004. Medical dispute resolution request form (TWCC received), dated 09/28/2004 (3pgs). Bone Joint Clinic letter, Dr. B, dated 08/16/2004 (2pgs). Sedgwick CMS Trustee/International Paper Company check, dated 10/20/2004. Emergency department records, dated 05/08/2004 (2pgs). Medical records of the Bone & Joint Clinic, dates, 06/08/04, 07/09/04, 7/30/04, 8/09/04. Designated doctor evaluation by Dr. S, dated 07/22/04 (3pgs). Medical records of Dr. L, dated 08/06/04 (3pgs). Investigative report, dated 07/28/04 (9pgs).

The notes between the date of the alleged injury and the first available note from Dr. B are not provided for review. The patient has a history of surgery for a left rotator cuff tear in 1999, however, details of the procedure are not provided. She did receive steroid injections intermittently for complaints related to the left shoulder.

The patient had a designated doctor evaluation done by Dr. S, PMR, on 07/22/2004. On examination she had no signs of a radiculopathy and the MRI of the lumbar spine only revealed degenerative changes from L4 to S1 levels. She had diffuse tenderness over both shoulders and a full range of motion.

Dr. S also reviewed surveillance tapes made in June and July 2004. These revealed the patient as being able to use her left upper extremity without any difficulty. She was observed to carry a deck chair and an ice box and walk a distance without any evidence of difficulty. In addition she gave a teenager a piggy-back ride looping her left upper extremity around the teenager's leg. Her actions related to sitting, standing, driving and moving from place to place were all performed without any objective evidence of difficulty or pain. Based on these findings she was made MMI as of 07/22/2004 and given a 0% PPI rating.

Per the review by Dr. L dated 08/06/2004 Dr. B had recommended arthroscopic surgery prior to the alleged injury. There was additional information from the surveillance tape about the patient's activities. She was able to pick up a 4-foot box with the left upper extremity, open the tailgate with both hands, and load the pickup bed. In addition she performed overhead movements frequently when unloading a shopping cart, a 20-pound bag of ice and groceries without any problems.

Dr. B, in a note dated 08/09/2004, stated that the patient had a new injury to her shoulder on 05/08/2004. It is not known if the surgeon reviewed the designated doctor evaluation, the surveillance tapes and the review by Dr. L prior to making his statements on 08/09/2004.

The pertinent findings in the report of the surveillance tapes made on three days in July 2004 (2 to 4) have already been noted in the previous paragraphs. The clinical appearance of the patient while she performed overhead and lifting activities using both upper extremities clearly identify an individual with no particular difficulty that would warrant arthroscopic intervention. Therefore, there is no medical necessity for further testing or treatment in relation to the alleged incident of 05/08/2004.

This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5)).

The reviewing provider is a Board Certified Orthopedic Surgeon and certifies that no known conflict of interest exists between the reviewing chiropractor and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

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) days or your receipt of this decision (28Tex.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) days of your receipt of this decision (28Tex.Admin. Code 148.3©.)

This decision is deemed received by you 5 (five) days after it was mailed (28Tex.Admin. Code 102.4(h)(2) or 102.5(d)). A request for a hearing **and a copy of this decision** should be sent to:

Chief Clerk of Proceedings / Appeals Clerk
Texas Workers' Compensation commission
P.O. Box 17787
Austin, Texas, 78744
Fax: 512-804-4011

The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties 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

29 day of November 2004.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____