

February 16, 2005

Bionicare Medical Technologies
Attn: Kim S
3060 Ogden Avenue, Suite 100
Lisle, IL 60532

VIA FACSIMILE
Zurich
C/o Flahive Ogden & Latson
Attn: Katie Foster

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-05-0683-01
TWCC #:
Injured Employee:
Requestor: Bionicare Medical Technologies
Respondent: Zurich c/o Flahive Ogden & Latson
MAXIMUS Case #: TW05-0010

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to MAXIMUS for independent review in accordance with this Rule.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the MAXIMUS external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in orthopedic surgery and is familiar with the condition and treatment options at issue in this appeal. The MAXIMUS physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to MAXIMUS for independent review. In addition, the MAXIMUS physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 59 year-old male who sustained a work related injury on _____. He twisted his knee while carrying heavy steel when he stepped off a step. The patient was first seen on 2/15/02. At that time he reported that his symptoms had not improved. He was prescribed Celebrex. MRI dated 2/22/02 indicated early degenerative changes of the medial and

patellofemoral compartments with small 1-2 mm osteophytes. Subtle foci of subcortical marrow edema in both compartments were noted to be concerning for occult grade IV chondromalacia. The overlying articular cartilages were not visibly disrupted, complex tearing of the posterior horn and body of the medial meniscus with horizontal cleavage tear in the posterior horn with extension to the inferior articular surface. On 4/4/02, the patient underwent arthroscopy of the right knee, partial medial meniscectomy and chondroplasty of the patella and medial femoral condyl. He was released to regular duty on 7/29/02. The patient continued to have pain in the right knee. On 10/15/02 the patient was referred to another physician. The patient underwent a functional capacity evaluation on 2/24/03. The patient continued with progressive osteoarthritic complaints with pain and swelling. And the purchase of a Bio-1000 Stimulator was requested to treat his condition.

Requested Services

Purchase of a Bio-1000 Stimulator.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Request for appeal dated 1/21/05

Documents Submitted by Respondent:

1. Reconsideration Non-Certified Notice dated 11/17/04.
2. Peer Review Addendum dated 8/6/04.
3. Operative report dated 3/24/03.
4. Letters of explanation for services (undated)
5. MMI/Impairment Rating Evaluation dated 6/18/04.
6. Peer Review dated 8/4/04.
7. Inpatient Rating Evaluation dated 8/13/02.
8. Impairment Rating Evaluation of Knee dated (not dated)
9. Report from MRI dated 2/22/02

Decision

The Carrier's denial of authorization for the requested services is upheld.

Rationale/Basis for Decision

The MAXIMUS physician reviewer noted that this case concerns a 59 year-old male who sustained a work related injury to his right knee on _____. The MAXIMUS physician reviewer also noted that the patient had undergone arthroscopic surgery to the right knee on 4/4/02. The MAXIMUS physician reviewer further noted that the patient continued with progressive osteoarthritic complaints with pain and swelling in the right knee and that the purchase of an Bio-1000 Stimulator has been requested for further treatment of this patient's condition. The MAXIMUS physician reviewer explained that there is no peer reviewed evidence based support for treatment of this patient's knee arthritis with a Bio-1000 Stimulator. Therefore, the MAXIMUS physician consultant concluded that the requested purchase of a Bio-1000 Stimulator is not medically necessary to treat this patient's condition at this time.

This decision is deemed to be a TWCC Decision and Order.

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 of your receipt of this decision. (20 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)** 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/Appeals Clerk
P.O. Box 17787
Austin, TX 78744

Fax: 512-804-4011

A copy of this decision should be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute. (Commission Rule 133.308(t)(2)).

Sincerely,
MAXIMUS

Elizabeth McDonald
State Appeals Department

cc: Texas Workers Compensation Commission

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 16th day of February, 2005.

Signature of IRO Employee: _____
External Appeals Department