MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive Austin, Texas 78738

Phone: 512-402-1400 FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M2-05-1019-01
Name of Patient:	
Name of URA/Payer:	Texas Association of School Boards
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Jack T. Barnett, DC

March 14, 2005

An independent review of the above-referenced case has been completed by a chiropractic doctor. 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

Medical Review of Texas (MRT) 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 MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Jack T. Barnett, DC
Texas Workers Compensation Commission

RE:

CLINICAL HISTORY
Documents Reviewed Included the Following:

1. Correspondence and treatment from the provider
2. Correspondence from the carrier's representative
3. Carrier review
4. FCE
5. Designated doctor report
6. Diagnostic imaging reports
7. NCV/EMG examination report
8. Reports of Rezik A. Saqer, M.D.
9. Concentra treatment records
10. Report of Henry N. Small, M.D.

This 35 year old female fell on concrete at work on ___ sustaining injuries to her head, face and neck. She subsequently underwent diagnostic imaging, NCV/EMG and physical medicine treatments. A work conditioning program is now being proposed after a multi-disciplinary work hardening program was denied.

REQUESTED SERVICE(S)
Prospective medical necessity for work conditioning X 20 sessions.

DECISION
Denied.

RATIONALE/BASIS FOR DECISION

While the provider and carrier disagree whether the injured claimant's occupation is "heavy" or "medium" and have used those classifications as the basis for and against the disputed treatment, the bigger issue is whether the proposed work-conditioning program is medically necessary. The decision in regard to medical necessity in this case can be made independent of the occupational classification.

In the preamble of the Texas Workers Compensation Commission's amendments to rule 134.600, the Commission states as follows: "Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers' compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop." [1] In its report to the legislature, the Research and Oversight Council on Texas Workers' Compensation explained its higher costs compared to other health care delivery systems by stating, "Additional differences between Texas workers' compensation and Texas group health systems also widen the cost gap. These differences include…in the case of workers' compensation, the inclusion of costly and questionable medical services (e.g., work hardening/conditioning.)" [2] In this case, the provider's proposed work conditioning program is just the type of questionable services of which the TWCC and the legislature spoke when expressing concern in regard to medically unnecessary treatments that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs.

Therapeutic, rehabilitative or conditioning exercises may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home with the least costly of these options being a home

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[1] 26 Tex. Reg. 9874 (2001)

[2] "Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers' Compensation System," Research and Oversight Council on Workers' Compensation, Report to the 77th Legislature, page 6.

program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the provider has failed to establish why the proposed services are required to be performed one-on-one when current medical literature states, "…there is no strong evidence for the effectiveness of supervised training as compared to home exercises." [3]

Moreover, the previously attempted treatments (therapeutic exercises and cardiovascular activities) had within them the modalities that are inherent in and central to the proposed work conditioning program. In other words and for all practical purposes, much of the proposed program has already been attempted and failed. Therefore, since the patient is not likely to benefit in any meaningful way from repeating unsuccessful treatments, the work conditioning program is medically unnecessary.

In addition, the designated doctor (who carries presumptive weight) made several recommendations for additional care in his report of 10/20/04, but work conditioning was not one of them.

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

[3] Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.

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 14th day of March 2005.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell