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

SOAH DOCKET NO. 453-05-6512.M2

Envoy Medical Systems, LP

1726 Cricket Hollow
Austin, Texas 78758
Fax 512/491-5145

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

April 11, 2005

Re: IRO Case # M2-05-1060 –01

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Physical Medicine and Rehabilitation, and who has met the requirements for the TWCC Approved Doctor List or who has been granted an exception from the ADL. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed services
2. Denial letters
3. IME, 8/19/04, Dr. Ciepiela
4. Medical records 3/10/04 – 1/13/05 Dr. McMillan
5. Medical records, including operative report 6/11/04 and office notes 5/24/04 –12/2/04 Dr. Moorehead
6. EMG/NCS report, 4/27/04
7. MRI lumbar spine report 3/3/04
8. Lumbar spine views report 2/10/04
9. Mental health evaluation 12/23/04
10. Work capacity evaluation 12/22/04
11. Work conditioning assessment 11/16/04
12. FCE, 11/15/04, 12/22/04

History

The patient is a 28-year-old male who in ___ was lifting cement and throwing it into a truck when he experienced a sudden onset of sharp, severe pain in the low back with radiation into the left hip and buttock . Initially he was treated with physical therapy, modalities and medication. An MRI of the lumbar spine revealed a left paracentral disk prtrusion at L4-5 with a probable large free fragment causing a severe spinal canal stenosis, mild left neural formainal stenosis and displacement of the left L% nerve root. EMG/NCS evaluation revealed severe L5 radiculopathy. The patient underwent an L4-5 laminotomy, diskectomy and foraminotomy on 6/11/04. he then underwent a post surgical rehabilitation program. AN FCE on 11/15/04 identified the patient as functioning at a medium physical demand level. His occupation requires a heavy physical demand level. A psychological evaluation did not identify any abnormalities. The patient was started on a work conditioning program and completed 20 sessions. The patient improved in his strength, endurance and flexibility. However, he also experienced more pain. A 12/22/04 FCE showed that he had improved to a medium/heavy physical demand level. Additional sessions of work hardening were recommended to elevate him to a heavy physical demand level. A mental health assessment identified mild symptoms of depression and anxiety as a result of his increased back pain from the work conditioning program. The recommendation for the additional work conditioning sessions also included psychological treatment, including pain management, stress management and career planning. Therefore 10 sessions of work hardening were requested.

Requested Service(s)

Work hardening program

Decision

I disagree with the carrier's decision to deny the requested work hardening program.

Rationale

The patient began a work conditioning program and progressed well, but he is not at the level he needs to be at to return to work. In addition, psychological deficits have now been identified that were not previously apparent. These were the result of the increased pain as a result of the work conditioning

program. Ten sessions of work hardening to further advance his functioning and address the psychological aspects of his treatment is reasonable and medically necessary.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to 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 (28 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) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

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

Chief Clerk of Proceedings / Appeals Clerk
P.O. Box 17787
Austin, Texas 78744

Fax: 512-804-4011

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

Sincerely,

_____

Daniel Y. Chin, for GP

In accordance with Commission Rule 102.4 (b), I hereby certify that a copy of this Independent Review Organization (IRO) decision was sent to the carrier and the requestor or claimant via facsimile or US Postal Service from the office of the IRO on this 13th day of April 2005.

Signature of IRO Representative:

Printed Name of IRO Representative: Alice McCutcheon

Requestor: Dr. N. Martinez, Attn Gracie Diaz, Fx 713-697-7111

Respondent: Texas Mutual Ins., Attn Ron Nesbitt, Fx 404-3980

Texas Workers Compensation Commission Fx 804-4871 Attn: