

# MEDICAL REVIEW OF TEXAS

[IRO #5259]

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## NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M2-05-1170-01
Name of Patient:	
Name of URA/Payer:	TASB
Name of Provider:	Interactive Pain
<small>(ER, Hospital, or Other Facility)</small>	
Name of Physician:	Thomas M. Richey, DC
<small>(Treating or Requesting)</small>	

May 17, 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: Interactive Pain  
Thomas M. Richey, DC  
Texas Workers Compensation Commission

CLINICAL HISTORY

Documents Reviewed Included the Following:

1. Notification of IRO Assignment, Table of Disputed Services and Carrier EOBs
2. Carrier's rationale for denial, dated 2/2/05
3. Position statement of medical necessity from the provider, dated 4/26/05
4. Position statement from carrier, with Exhibits, dated 5/4/05
5. Original medical doctor's treating notes, multiple dates
6. Original physical therapy and rehabilitation notes, multiple dates
7. Left knee MRI report, dated 12/12/01
8. Operative report (knee arthroscopy) with pathology report and hospital records, dated 1/31/02
9. Lumbar MRI report, dated 4/27/01
10. EMG/NCV study and report, dated 9/6/02
11. Post-myelogram CT report of lumbar spine, dated 12/4/02
12. Nurse case manager reports, multiple dates
13. In-house peer review, dated 12/11/02
14. Orthopedic surgeon office visit notes, dated 11/13/02, 12/27/02, 5/16/03, 8/24/04
15. Operative report (lumbar), dated 5/1/03
16. Carrier peer review, dated 11/18/03
17. Mental health evaluation and report, dated 9/1/04
18. Psychiatric evaluation and report, dated 9/1/04
19. Follow-up letter and report from requesting health care provider, dated 11/18/04
20. Designated doctor examination and report (eventually overturned), dated 7/19/02
21. Designated doctor examination and report (not at MMI), dated 2/22/03

22. Designated doctor examination and report (with MMI determination), dated 4/18/03
23. Reconsideration letter and report from requesting health care provider, dated 1/24/05
24. Daily Patient Records, multiple dates
25. Treating doctor narrative reports, multiple dates
26. Therapy evaluation narratives, multiple dates
27. Pain management daily progress notes, multiple dates
28. Vocational rehabilitation group status reports, multiple dates
29. Individual therapy notes, multiple dates
30. Functional capacity evaluations, dated 12/2/04
31. TWCC-73s, multiple dates

Patient is a 56-year-old female custodian for the school district who, on \_\_\_\_, stepped off the bus walk in a poorly lit parking lot and fell, causing injury to her lower back and left knee. She attempted conservative management, including chiropractic care, physical therapy and rehabilitation, but when that failed, she tried epidural steroid injections. When these treatments failed, she underwent left knee arthroscopy on 1/2/02, and then on 5/1/03, she underwent laminectomy at L3-4, foraminectomy of L3-5, L4-5 and L5-S1, nerve root explorations of L3, L4, L5 and S1 bilaterally, and posterolateral fusion to L3 (?) These surgical procedures were then followed by post-operative physical therapy and rehabilitation. She was originally assigned a 5% whole-person impairment by a designated doctor on 7/19/02, but it was later retracted by the same doctor. On 4/18/03, he again performed an impairment rating, determined that she was again MMI, and assigned a 20% whole-person impairment.

#### REQUESTED SERVICE(S)

Prospective medical necessity of 20 sessions of chronic pain management program.

#### DECISION

Approved.

#### RATIONALE/BASIS FOR DECISION

In this case, the patient has already participated in 10 sessions of a chronic pain management program ("CPMP"), and the

medical records adequately document that improvement has been achieved. According to the visual analog scale readings, the patient's pain improved approximately 15% (between 1-2 points), and the both the BDI and BAI scores improved 3 points and 4 points, respectfully, and the patient's sleep time had increased from 3-4 hours nightly to 5 hours nightly with decreased wake-ups. As a result, the medical records adequately established that the chronic pain management program/services fulfilled the statutory requirements<sup>1</sup> since the patient obtained relief and promotion of recovery was accomplished, and there was an enhancement of the employee's ability to retain employment (since, according to the TWCC-73s, she has been working since 2002).

Furthermore, upon careful review of the carrier's rationale for denial, they state, "1) Chronic Pain Management Program not CARF compliant. 2) No PhD-level psychologist on staff. 3) Use of massage therapy as modality not empirically validated several years post injury. 4) Minimal changes noted on Beck Depression Inventory II and on Beck Anxiety Inventory. 5) Patient is not benefiting maximally from the program." [numbers added for reference]

First of all, points #1 and 2 are administrative concerns, and have no bearing on the medical necessity of CPMP itself. With regard to point #3, massage services are a minor component of a CPMP, and the presence or absence of empirical data on this one service in no way applies a substantive affect on the overall CPMP. And finally, with regard to points #4 and 5, the Texas Labor Code, Section 408.021, fails to specify a quantitative value for "relief" or "benefit." Therefore, denying the care because the patient has exhibited "minimal changes," or because the patient was not "benefiting maximally" from the CPMP is without basis, and inaccurately represents the statutory requirements for medical necessity.

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<sup>1</sup> Texas Labor Code 408.021

## 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 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 18<sup>th</sup> day of May, 2005.

Signature of IRO Employee: \_\_\_\_\_

Printed Name of IRO Employee: Cindy Mitchell