

April 15, 2005

VIA FACSIMILE
Cotton D. Merritt, DC
Attn: Michelle Olivarez

VIA FACSIMILE
Zurich American Ins. Co.
Attn: Annette Moffett

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-05-1215-01
TWCC #:
Injured Employee:
Requestor: Cotton D. Merritt, DC
Respondent: Zurich American Ins. Co.
MAXIMUS Case #: TW05-0058

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 physical medicine and rehabilitation 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 female who sustained a work related injury on _____. The patient reported that while at work she injured her right shoulder while she was bathing a patient, when she experienced sudden pain. An MRI of the right shoulder performed on 6/2/04 showed a rotator cuff tenopathy and possible bursal tears and degeneration of the AC joint. The patient was then treated with physical therapy and injections. An electro-diagnostic study performed on 8/9/04 revealed no evidence of a peripheral entrapment syndrome. The patient was further treated with therapeutic exercises, neuromuscular reeducation, and manual therapies. The current

diagnoses for this patient include right shoulder impingement syndrome complicated by rotator cuff tendonopathy and probable bursa tear, and adhesive capsulitis, freezing stage. The patient has been recommended for a work conditioning program for further treatment of her condition.

Requested Services

Work Conditioning.

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

Documents Submitted by Requestor:

1. History of Present Injury 7/29/04 - 2/7/05
2. Electrodiagnostic Study Report 8/9/04
3. PRME Medical Examination 11/8/04
4. MRI report 6/2/04
5. Office Notes 5/28/04 - 7/7/04

Documents Submitted by Respondent:

1. MRI report 7/1/04
2. Chiropractic Peer Review 1/17/05
3. PRME Medical Examination 11/8/04
4. Peer Review 8/25/04
5. Medical Records Review 11/2/04

Decision

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

Rationale/Basis for Decision

The MAXIMUS physician reviewer noted that this case concerns a 43 year-old female who sustained a work related injury to her right shoulder on _____. The MAXIMUS physician reviewer indicated that the patient has received traditional therapy with some improvement in range of motion and function noted in the right shoulder. The MAXIMUS physician reviewer explained that the patient continued to have limitation in active range of motion in the right shoulder and that the patient has reported a pain level of 3/10. The MAXIMUS physician reviewer noted that a functional capacity evaluation on 2/7/05 revealed the patient to be performing at light duty work and that her present job requires heavy duty. The MAXIMUS physician reviewer explained that if the patient is required to return to her previous job duties, a structured work conditioning program is necessary to facilitate a return to full time duty. The MAXIMUS physician reviewer indicated that physical conditioning programs that include a cognitive behavioral approach with intensive physical training, muscle strengthening and endurance and coordination are work related and when supervised by physical therapy or a multidisciplinary team are effective in reducing the number of sick days for some workers (Pain Physician 2N2-5; 2002-5: 360-364. Schonstein E., et al; Cochrane Review 2003). Therefore, the MAXIMUS physician consultant concluded that the requested work conditioning program is 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 15th day of April 2005.

Signature of IRO Employee: _____
External Appeals Department