

MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive

Austin, Texas 78738

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M2-05-1232-01
Name of Patient:	
Name of URA/Payer:	Hartford Insurance
Name of Provider: (ER, Hospital, or Other Facility)	Positive Pain Management
Name of Physician: (Treating or Requesting)	Peter Foox, MD

April 19, 2005

An independent review of the above-referenced case has been completed by a medical physician board certified in physical medicine and rehabilitation. 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.

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Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Positive Pain Management
Peter Fook, MD
Texas Workers Compensation Commission

RE:

CLINICAL HISTORY

This is a 49 year old lady with a nearly ten year history of knee pain. The knee injury has been addressed with several surgical interventions. The pain continues to worsen and the amount of narcotic medications has increased. Past assessment notes that there are several treatment alternatives that need to be addressed (Bio-feedback, weight loss and total knee arthroplasty). This request has gone to pre-authorization twice and was denied both times. In response to the second denial Michael Caruso, Ed.D. cites a passage from the statute, that a physical examination does not need to be completed until the program is initiated, that there is a fear of re-injury, noted ACOEM Guidelines and the ODG Guidelines. Also noted was a rather boilerplate psychological evaluation from Ron R. Zeigler, Ph.D. and a PPA from Aaron Relyea, MHR.

REQUESTED SERVICE(S)

Chronic pain management program.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

As noted by Mr. Caruso, the statute allows for specific care that cures or relieves the effects naturally resulting from the compensable injury. In this case the injury was a meniscal lesion that was addressed. The current problem is the severe osteoarthritis that is a function of the morbid obesity in this lady. In that she cannot undergo a curative procedure secondary to that obesity, and that this lady has had nine years to lose the impediment to the surgery, one has to think that this lady will not take anything away from this program that would alleviate the complaints. This is not a pain resolution program and the claimant has done nothing to help herself get better.

Does this program promote recovery? Clearly that answer is no. The goal of the program as noted in the article from Spine (1999 Jan 1;13:47-58 with 65 references) is not to relive the pain causes, only to allow the participant to optimize activity and minimize utilization of

services. Those goals are not reachable in this case as demonstrated by the lack of any self directed improvement in this case.

Does this program enhance the ability of the employee to return to work? After a ten year absence, the chances of a return to work situation are nil. Multiple studies have demonstrated that the cut off is a six month time frame. Therefore, from any perspective there is no reasonable chance of success for this program altering any aspect of the claimant's pain complaints. There was a suggestion that a trial of bio-feedback be tried to determine if symptoms can be controlled via that methodology. That has not been done so all appropriate lower levels of care have not been attempted. There is no explanation as to why there is no weight loss when the reason for the possibly curative surgery, the TKR, is only being held up by the morbid obesity. This is not to endorse any procedure to enhance weight loss other than diet modification

Therefore, with no reasonable chance for success, no attempts at completing all lower levels of care and that this program does not meet the statutory standards for care and the treatment goals noted from the citation identified above could not be met; there is no reason to endorse this type of treatment protocol.

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 20th day of April, 2005.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell