

August 25, 2005

VIA FACSIMILE
Kenneth G. Berliner, MD
Attn: Brenda Gonzalez

VIA FACSIMILE
TPS Joint Self Insurance Funds
Attn: Robert Josey

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-05-2226-01
TWCC #:
Injured Employee:
Requestor: Kenneth G. Berliner, MD
Respondent: TPS Joint Self Insurance Funds
MAXIMUS Case #: TW05-0174

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 orthopedic surgery 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 47-year old female who sustained a work related injury on _____. The patient reported that while folding tables, chairs and portable walls she injured her lower back and left knee. She was diagnosed with left knee post traumatic arthritis, acute lumbar strain/sprain, soft tissue sprain/strain, and acute left medial collateral ligament. Treatment has included oral anti inflammatories, physical therapy, Kenalog injections, Synvisc injections, knee bracing, arthroscopy with medial meniscectomy, lateral retinacular release and chondroplasty, epidural injections, a spinal stimulator and chronic pain program services.

Requested Services

Preauthorization request for total arthroplasty and 3 day inpatient length of stay.

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

Documents Submitted by Requestor:

1. Orthopedic Report – 8/25/03, 10/6/03, 12/20/04, 3/7/05, 3/14/05, 3/28/05, 6/27/05
2. Statement of medical necessity – 3/7/05, 6/27/05
3. X-ray left knee – undated
4. Prescription for injections – 12/20/04
5. Functional Capacity Evaluation Summary Report – 10/24/03
6. MRI of left knee – 7/18/03
7. MRI of lumbar spine – 5/12/03
8. The Spine Rehabilitation Center Medical Report – 5/6/03, 2/4/04, 4/19/04, 6/25/04, 8/12/04, 9/16/04, 10/14/04
9. Orthopedic Consult – 7/28/03
10. Physical Examination – 7/2/03

Documents Submitted by Respondent:

1. Orthopedic Report – 6/27/05
2. Medical Examination – 7/28/04

Decision

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

Rationale/Basis for Decision

The MAXIMUS physician consultant explained that the patient sustained a work related injury on _____. The MAXIMUS physician consultant indicated there is a discrepancy as to the meniscal injury. The MAXIMUS physician consultant noted an MRI reported mucoid degeneration but that her doctor found a medial meniscal tear. The MAXIMUS physician consultant also noted that as of December 2004, the patient's symptoms and her radiographic findings are only "mild". The MAXIMUS physician consultant explained that the arthroscopic examination, operative note and intra-operative photographs were not submitted for review. The MAXIMUS physician consultant also noted that the records described patellofemoral arthrosis and medial compartment arthritis at the time of arthroscopic examination. The MAXIMUS physician consultant indicated that the 8/29/03 arthroscopy was performed months after the patient's injury and that it was unlikely that this was enough time for development of the described changes as a result of the index injury. The MAXIMUS CHDR physician consultant explained that on 8/29/03, just three months post injury, this short time frame would not allow these changes to occur in a knee secondary to the index injury. The MAXIMUS physician consultant explained that in addition, the records do not demonstrate that non-operative modalities such as bracing, physical therapy and supportive devices have been exhausted.

Therefore, the MAXIMUS physician consultant concluded that the requested preauthorization request for total knee arthroplasty and 3 day inpatient length of stay are not medically necessary for treatment of this patient's condition.

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

Lisa Gebbie, MS, RN
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 25th day of August 2005.

Signature of IRO Employee: _____
External Appeals Department