



Specialty Independent Review Organization, Inc.

June 14, 2005

TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M2-05-1643-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor with a specialty in Rehabilitation. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

The records indicate that Mr. ___ was injured in ___ while working for _____. He has undergone multiple treatments include passive therapies, active therapies, surgery, post-surgical rehabilitation, pain management injections, pain management program and psychological evaluations. The FCE's indicate that he qualifies for a medium PDL while his work requires a very heavy PDL. Apparently, the patient has not returned to work since the date of injury. The WH program was denied by Mark Carlson, DC and Anthony Bottorff, DC.

RECORDS REVIEWED

Records were received from the treating doctor and from the respondent. Records from the treating doctor include the following: submission and resubmission of requests for work

hardening, DD report (69 and narrative) of 2/3/05 by Juanita Arcilla, MD 1/25/05 letter by Thomas Wilkins, 11/12/03 narrative report by Dr. Schneringer, 4/18/05 letter by Dr. Schneringer, 12/8/03 script by Dr. Esses, 12/15/04 psychological evaluation by J. Morgan, LPC, 12/17/04 letter by Dr. Shanti, 1/21/05 narrative report by TX Injury Consultants, FCE of 2/3/05, ESI report of 1/14/04, Functional testing by Tracy Galle (undated), 1/26/05 ergasys ELC report, 11/19/04 Ergasys report, 4/22/04 letter by Stephen Esses, MD, 6/14/04 letter by Dr. Esses, 9/2/04 note by Issaan Shanti, MD, 3/25/04 letter by Dr. Esses, lumbar MRI of 11/14/03, 11/20/03 neurodiagnostic testing by Anjali Jain, MD, 12/8/03 note by Dr. Esses, 1/3/05 script for work hardening by Dr. Esses, 2/17/05 note by Dr. Esses and 2/2/04 letter from Dr. Esses.

Records from the respondent include some of the above in addition to the following: letter from Flahive, Ogden and Latson, 3/29/05 denial for WH by Mark Carlson, DC, 3/21/05 denial for WH by Anthony Bottorff, DC and 11/2/05 Ergasys report.

REQUESTED SERVICE

The requested service is a four to six week work hardening program.

DECISION

The reviewer disagrees with the previous adverse determination regarding a four-week work hardening program. The reviewer further indicates that Mr. ___ progress should be tracked at bi-weekly intervals. The patient should be showing progress in strength, functionality and ROM. Should he not show progress, the program should likely be terminated secondary to non-functional improvement by the patient.

BASIS FOR THE DECISION

The psychological evaluation by J. Morgan, LPC indicates that Mr. ___ greatest fear is that "he will end up non-productive and dysfunctional." The FCE of February 2005 indicates that he currently functions in the medium PDL according to Karl Erwin, MD. Dr. Erwin indicates that the patient provided consistent effort, maximal effort and exhibited the normal physiological and biomechanical changes normally associated with a person providing maximal effort. Records were not provided from the carrier or the providers in this case which covered the treatment period of the pain management program. Therefore, it is difficult to determine whether or not Mr. ___ responded well to the psychological program. Dr. Bottorff's reasoning for denying the requested program is that he had already had a chronic pain management program and that he "should do just as well with a self-directed home exercise program". The reviewer states that he cannot come to the same conclusion due to a lack of information regarding the CPM program and due to the study that follows. Secondly, Filiz M, Cakmak A, Ozcan E. The effectiveness of exercise programmes after lumbar disc surgery: a randomized controlled study Clin Rehabil. 2005 Jan;19(1):4-11 indicates that a intensive rehabilitation program outpaced both a home exercise protocol and no treatment at all. Dr. Carlson states that the patient would improve with

simple return to work/resumption of activity. The reviewer indicates that the patient will improve with increased activity; however, it has not been determined that Mr. ___ can return to work in a safe manner at his current PDL.

The requirements for a work hardening program include the following according to the Council on Chiropractic Physiologic Therapeutics and Rehabilitation Guidelines and Industrial Rehabilitation-Techniques for Success by Robin Saunders, PT.

- 1) psychological component (that will not affect outcome of treatment)
- 2) less than optimal PDL (physical component)
- 3) a job to return to or a job oriented goal
- 4) the job goal is attainable in less than eight weeks
- 5) the program is not medically contraindicated

The patient meets these goals according to the records; therefore, he qualifies for a return to work program of a multidisciplinary nature as per accepted clinical protocols.

REFERENCES

S. Brotzman, K. Wilk Clinical Orthopaedic Rehabilitation, Mosby, 2003

ACOEM Guidelines

Council on Chiropractic Physiologic Therapeutics and Rehabilitation Guidelines

Saunders, R Industrial Rehabilitation-Techniques for Success, Saunders Group, 1995

Filiz M, Cakmak A, Ozcan E. The effectiveness of exercise programmes after lumbar disc surgery: a randomized controlled study Clin Rehabil. 2005 Jan;19(1):4-11

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,
Wendy Perelli, CEO

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.

In the case of prospective *spinal surgery* decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other *prospective (preauthorization) medical necessity* disputes 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, Texas Worker’s Compensation Commission, P.O. Box 17787, Austin, TX 78744. The fax number is 512-804-4011. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(u)(2).

Sincerely,

Wendy Perelli, CEO

I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant’s representative) and the TWCC via facsimile, U.S. Postal Service or both on this 14th day of June 2005

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli