

MCMC

IRO Medical Dispute Resolution M2 Prospective Medical Necessity IRO Decision Notification Letter

| | |
|------------------------------|----------------------|
| Date: | 02/09/2006 |
| Injured Employee: | |
| Address: | |
| | |
| MDR #: | M2-06-0587-01 |
| DWC #: | |
| MCMC Certification #: | IRO 5294 |

REQUESTED SERVICES:

Please review the item(s) in dispute: Pre-authorization denied for 20 days of chronic pain management.

DECISION: Upheld

IRO MCMC llc (MCMC) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO) to render a recommendation regarding the medical necessity of the above disputed service.

Please be advised that a MCMC Physician Advisor has determined that your request for an M2 Prospective Medical Dispute Resolution on 02/09/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The requested 20 days of chronic pain management is not medically necessary.

CLINICAL HISTORY:

The injured individual is a male with a date of injury of _____. The injured individual did not report the event until 07/16/2001. He had a similar injury in the '80s treated with work hardening so there had been pre-existing back problems. The MRI of 07/2001, a month after his claimed date of injury, showed degenerative joint disease (DDD) and bulges consistent with pre-existing problems. The injured individual had electromyogram (EMG) evidence of bilateral S1 and left L3 radiculopathy and surgery was recommended four times. The injured individual even made it as far as the operating room every time but it was always canceled for non-Worker's Compensation related causes. He had a functional capacity exam (FCE) in 09/2005, which states his functionality is at pre-injury levels. The pain program is denied for multiple reasons: It is not possible to link his date of injury directly to his complaints; he is surgical; and his FCE indicates no functional deficits.

REFERENCE:

Bonica JJ. Ed. The Management of Pain. Third Edition. Copyright 2000.

RATIONALE:

The injured individual is a male who was scheduled for lumbar surgery four times but it was never done due to findings of new Diabetes Mellitus, he was still on aspirin, he could not be intubated, and his oxygen saturation was low. He is a surgical candidate as he was approved for it four times so the efficacy of a conservative pain management program which is essentially exercise and psychology based is minimal. He also did not report his injury until a month after it happened and he had a similar injury in the 1980s so relationship to one particular date or event is not possible to determine. Finally, he had a functional capacity exam (FCE) in 09/2005 which stated "he is capable of performing at pre-injury status" so the need for a functionally restorative pain program is not supported as his function is stated as pre-injury also.

RECORDS REVIEWED:

- Notification of IRO Assignment dated 01/20/06
- MR-117 dated 01/19/06
- DWC-60
- DWC-73: Work Status Reports dated 07/16/01 through 07/06/04
- MCMC: IRO Medical Dispute Resolution Prospective dated 01/27/06
- MCMC: IRO Acknowledgment and Invoice Notification Letter dated 01/20/06
- Law Offices of Jeffrey M. Lust: Letter dated 01/26/06 from James Cassidy
- Concentra: UR Peer Review Summary Denials dated 12/28/05, 12/16/05, 12/02/05, 11/10/04
- Concentra: Report dated 12/08/05 from Louis Sabater, Utilization Review Nurse
- Concentra: Report dated 12/02/05 from Robin Schneider, Utilization Review Nurse
- Positive Pain Management, Inc.: Psychological Evaluation Report dated 10/17/05 from Ron Ziegler, Ph.D.
- St. Mary's Behavioral Pain Management: Follow-up Evaluation dated 07/02/04 from Jaime Ganc, M.D.
- St. Mary's Behavioral Pain Management: Psychiatric Evaluation dated 05/21/04 from Jaime Ganc, M.D.
- Gerardo Zavala, M.D.: Reports dated 12/01/03, 03/08/04, 04/01/04, 04/27/04, 05/11/04, 06/03/04, 07/06/04
- San Antonio Chronic Pain Program: Psychiatric Evaluation dated 10/03/03 from Jaime Ganc, M.D.
- San Antonio Chronic Pain Management: Individual Progress Note dated 10/03/03 (handwritten) from Jaime Ganc, M.D.
- Alan Strizak, M.D.: Peer Review report dated 09/05/03
- W. S. Avant, Jr., M.D.: Reevaluation dated 07/18/03
- Wilbur Avant, Jr., M.D.: Lower Extremity Evoked Potential Study dated 06/06/03
- James Cox, Utilization Management: Report dated 08/28/02
- Cost Management reports dated 05/29/02, 05/14/02

- Ruth Davenport, Utilization Management: Report dated 05/16/02
- Jeanita Denison, Utilization Management: Report dated 04/10/02
- Concentra: Transcription note dated 07/26/01 from Robert Bass, M.D.
- Concentra: Transcription notes dated 07/16/01 and 07/20/01 from Larry Spence, M.D.
- Workman's Comp Verification Sheet (undated)

The reviewing provider is a **Licensed/Boarded Pain Management/Anesthesiologist** and certifies that no known conflict of interest exists between the reviewing **Pain Management/Anesthesiologist** and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision prior to referral to the IRO. The reviewing physician is on DWC's Approved Doctor List.

Your Right To Appeal

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

This decision is deemed received by you 5 (five) days after it was mailed (28Tex.Admin. Code 102.4(h)(2) or 102.5(d)). A request for a hearing **and a copy of this decision** should be sent to:

Chief Clerk of Proceedings / Appeals Clerk
Texas Department of Insurance Division of Workers' Compensation
P.O. Box 17787
Austin, Texas, 78744
Fax: 512-804-4011

The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties 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

9th day of February 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____