

NOTICE OF INDEPENDENT REVIEW DECISION

February 21, 2006

Requestor

Brad Burdin, DC
ATTN: Jessica
9502 Computer Dr., #100
San Antonio, TX 78229

Respondent

Safety First Insurance c/o FOL
ATTN: Katie Foster
505 W. 12th St.
Austin, TX 78701

RE: Claim #:
Injured Worker:
MDR Tracking #: M2-06-0673-01
IRO Certificate #: IRO4326

TMF Health Quality Institute (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Division of Workers' Compensation (DWC) has assigned the above referenced case to TMF for independent review in accordance with DWC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. The TMF physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and the provider, 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 before referral to the IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient sustained a work-related injury on ____ when she tripped into an uncovered drain twisting her left ankle. She fell to the floor striking both knees. In addition, she struck the right side of her head and jaw on a table.

Requested Service(s)

12 units of individual strength/range of motion

Decision

It is determined that 12 units of individual strength/range of motion are not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

Physical medicine treatment requires ongoing assessment of a patient's response to prior treatment and modification of treatment activities to effect additional gains in function. Continuation of an unchanging treatment plan, performance of activities that could be performed as home exercise program, and/or modalities that provide the same effects as those that can be self applied, are not indicated. Services that did not require "hands-on care" or supervision of a health care provider are not considered medically necessary services even if the services were performed by a health care provider.

Therapeutic exercises may be performed in a clinic one-on-one, in a clinic, in a group, at a gym, or at home. A home exercise program is preferable because the patient can perform them on a daily basis. The provider in this case has failed to establish why it was still necessary for the therapeutic exercises to be performed one-on-one and supervised, particularly when current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises."¹ And after months of monitored instruction, the patient should have been able to perform the ankle and knee exercises on her own.

Review of the initial and subsequent physical performance tests revealed that although left ankle dorsiflexion improved from 10 degrees to 25 degrees, and left knee flexion improved 93 to 104 degrees, left ankle plantar-flexion and left knee extension worsened from 16 to 4 degrees, and from 10 to 8 degrees respectfully. In addition, the minimal gains that were obtained in this time period would likely have been achieved through performance of a home program.

This decision by the IRO is deemed to be a DWC decision and order.

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 or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for hearing and a **copy of this decision** must 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.

¹ Ostel RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.

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The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in this dispute.

Sincerely,



Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:dm

Attachment

cc: Injured Worker
Program Administrator, Medical Review Division, DWC

In accordance with division 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 21st day of February 2006.

Signature of IRO Employee:

Printed Name of IRO Employee:

Information Submitted to TMF for Review

Patient Name:

Tracking #: M2-06-0673-01

Information Submitted by Requestor:

- Office notes
- Medical dispute letter
- Electrodiagnostic Study
- History and Physical
- Lower extremity evaluation
- Report of MRI of the left ankle
- Report of MRI of the left knee
- Range of Motion Examinations
- Notification of Review Outcome

Information Submitted by Respondent:

None