

NOTICE OF INDEPENDENT REVIEW DECISION

March 30, 2006

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Requestor

Nestor Martinez, DC
ATTN: Angie Velasquez
6660 Airline Dr.
Houston, TX 77076

Respondent

Ace American Insurance Co.
ATTN: Javier Gonzalez
Fax#: (512) 394-1412

RE: Claim #:
Injured Worker: _____
MDR Tracking #: M2-06-0701-01
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 he caught his finger in the fiberglass cutting machine resulting in a traumatic amputation of the left ring finger just distal to the proximal interphalangeal joint. Following surgery, he underwent therapy and rehabilitation.

Requested Service(s)

Work hardening program 5 days per week times 4 weeks (20 sessions)

Decision

It is determined that the work hardening program 5 days per week times 4 weeks (20 sessions) is not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The medical record documentation states that the evaluating psychologist described the patient as having "de-conditioning". However, a diagnosis was not given or any basis for why psychological sessions were indicated. The psychologist stated that the patient would benefit from physical modalities of the program by improving his range of motion and increasing his strength. However, the previously attempted therapeutic exercises, neuromuscular reeducation treatment, joint mobilizations, and myofascial release treatment had within them the exercises and modalities that are inherent in and central to the proposed work hardening program. Much of the proposed program has already been attempted and failed. Therefore, since the patient is not likely to benefit in any meaningful way from repeating unsuccessful treatment, the proposed work hardening program is medically unnecessary.

In addition, the proposed work hardening program fails to meet statutory requirements¹ for medical necessity since the patient would not obtain relief, promotion of recovery would not be accomplished and there would be no enhancement of the employee's ability to return to employment. The proposed work hardening program would not address the patient's chief problems which are (1) the missing part of his finger and (2) the formation of terminal neuromas – which according to the orthopedic surgeon, may require revision/amputation by a hand surgeon.

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 Texas Labor Code 408.021

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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 30th day of March 2006.

Signature of IRO Employee:

Printed Name of IRO Employee:

Information Submitted to TMF for Review

Patient Name: ____

Tracking #: M2-06-0701-01

Information Submitted by Requestor:

- Letter from Dr. McMillan
- Functional Capacity Assessment
- Work Hardening Assessment Psychosocial History
- Letter from Dr. Martinez
- Subsequent Medical Report
- Physical Therapy Evaluation
- Request for Reconsideration

Information Submitted by Respondent:

- Initial Medical Reports
- Operative Reports
- Radiology Report
- Post – Surgical Evaluations
- Daily Progress Notes
- Consultation Reports and Findings
- Subsequent Medical Reports
- Follow up reports
- Orthopedic History and Physical
- Functional Capacity Assessment
- Request for Reconsideration
- Letter from Dr. Martinez
- Work Hardening Assessment Psychosocial History
- Determination notice
- PEER Review Report