

May 5, 2006

TX DEPT OF INS DIV OF WC
AUSTIN, TX 78744-1609

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-1002-01

CLIENT TRACKING NUMBER: M2-06-1002-01

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIOA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA 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. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing between that provider 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 before referral to the IRO.

Records Received:

Records from the State:

IRO request undated 1 page

Notification of IRO assignment dated 4/3/06 2 pages

Medical dispute request undated 4 pages

Denial letter dated 01/16/06 2 pages

Appeal denial letter 01/23/06 2 pages

Records from the Provider:

Patient history and initial evaluation dated 1/02/05 2 pages

Progress note dated 02/21/06 1 page

Records from the Requestor:

Letter from RS medical undated 3 pages

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RS medical prescription dated 11/29/05 1 page
Letter from Dr Oliva dated 01/05/06 2 pages
RX medical prescription dated 01/09/06 1 page
Appeal letter dated 02/04/06 1 page
RS medical patient usage report dated 11/18/05 8 pages

Records from the Respondent:

Letter from Attorney dated 04/11/06 2 pages
Letter from Attorney dated 03/20/06 3 pages
NMES auto denial undated 1 page
Literature from the Medicare coverage database undated 7 pages
List of contractor's undated 7 pages
ACOEM guidelines 74 pages
Literature from PT Global.net 10 pages
Plan language 1 page
Literature from WebMD 7 pages
Decision and order from the state of Texas dated 01/03/03 5 pages
Independent review determination dated 07/29/03 2 pages
Independent review determination dated 08/20/03 3 pages
Independent review decision dated 11/05/03 3 pages
Independent review decision dated 11/17/03 3 pages
Medical Dispute resolution dated 11/05/03 3 pages
Review determination dated 09/29/03 3 pages
Review determination dated 09/18/03 3 pages
Independent review decision dated 08/07/03 3 pages
Review determination dated 7/14/03 3 pages
Review determination dated 10/02/03 3 pages
Review determination dated 8/04/03 3 pages
Review decision dated 09/23/03 2 pages

Summary of Treatment/Case History:

The patient is a 52-year-old male who had a right shoulder injury at work on _____. He had surgery in March 2004 and a second surgery in March 2005. He continues to complain of pain in the right shoulder. He was diagnosed by a pain management specialist with complex regional pain syndrome. He was subsequently prescribed and RS4i neuromuscular stimulator. On 2/21/06 he was still complaining of shoulder pain and there was subjective opinion that the RS stimulator was helpful. There were no objective findings to verify that in the medical record.

Questions for Review:

1. Is the purchase of RS41 muscle stimulator medically necessary?

Explanation of Findings:

1. Is the purchase of RS41 muscle stimulator medically necessary?

There is agreement with the insurance carrier that the above services are not medically necessary.

There are numerous references above regarding the efficacy of the required stimulator. All of these institutional references and independent reviews did not find objective evidence that the requested (continued)

stimulator is effective. It is considered an investigational device. There are no objective criteria cited in the case of the patient in question that indicate the stimulator is effective. Effective parameters would be improvement in range of motion (ROM), improvement in strength, and improvement to the point that the patient could return to gainful employment at or near his prior level. Also, he would be able to function without the use of analgesics and anti-inflammatories. There are no well-controlled objective studies that indicate that there is a statistically significant benefit provided by the RS4i stimulator in regards to shoulder pain. These references indicate that it is not effective.

References Used in Support of Decision:

1. Journal of Pain Oct 2001;2(5):295-300 "Electrial muscle stimulation as an adjunct to exercise therapy in the treatment of nonacute low back pain: a randomized trial" Glaser JA.
2. AM J of Pain Management 1997;7:92-97 "Electrical Muscle stimulation: portable electrotherapy for neck and low back pain: patient satisfaction and self-care." Wheeler, AH
3. Clin Physiol 2001;21:704-11 "The effect of three electrotherapeutic modalities upon peripheral nerve conduction and mechanical pain threshold" Alves-Guerro.
4. Ann Rheum Dis 1999;58:530-40 "No effect of bipolar interferential electrotherapy and pulsed ultrasound for soft tissue shoulder disorders: a randomized controlled trial" van der Heijden et al.
5. Phys Ther Oct 2001; 81(10); "Philadelphia panel evidence based clinical practice guidelines on selected rehabilitation interventions for low back pain."
6. Clin Physiol Func Imaging Sept 2002;22(5) :339-47 Minder PM
7. ACOEM guidelines copyright 2004 pages 48, 174, 203, 235, 300, 337 and 369

The physician providing this review is board certified in Orthopedic Surgery. The reviewer holds additional certification from the American Board of Orthopaedic Surgery. The reviewer has served in capacity of executive committee member, credentials committee, chairman of the surgery department, board of directors and quality boards at various hospitals and medical centers. The reviewer currently serves as the Chief of Orthopedic Surgery at a VA Medical Center. The reviewer has been in active practice since 1970.

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.

Chief Clerk of Proceedings / Appeals Clerk
P. O. Box 17787
Austin, TX 78744

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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. MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the DWC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIOA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIOA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIOA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

1220305.1

Case Analyst: Raquel G ext 518

cc: requestor and respondent