

RYCO MedReview

DETERMINATION OF INDEPENDENT REVIEW

NAME OF PATIENT: _____
IRO CASE NUMBER: M2-07-0162-01
NAME OF REQUESTOR: _____
NAME OF PROVIDER: Richard S. Westbrook, M.D.
REVIEWED BY: Board Certified in Orthopedic Surgery
IRO CERTIFICATION NO: IRO 5345
DATE OF REPORT: 11/21/06

Dear Mr. ____:

RYCO MedReview has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO) (#IRO5345). Texas Insurance Code Article 21.58C, effective September 1, 1997, allows a patient, in the event of a life-threatening condition or after having completed the utilization review agent's internal process, to appeal an adverse determination by requesting an independent review by an IRO.

In accordance with the requirement for TDI-Division of Workers' Compensation (DWC) to randomly assign cases to IROs, DWC has assigned your case to RYCO MedReview for an independent review. The reviewing physician selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the reviewing physician reviewed 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.

This case was reviewed by a health care professional or physician reviewer who is Board Certified in Orthopedic Surgery and is currently listed on the DWC Approved Doctor List.

I am the Secretary and General Counsel of RYCO MedReview and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of

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interest that exist between him 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 Independent Review Organization.

REVIEWER REPORT

Information Provided for Review:

Evaluations with Marta K. Rose, A.N.P. dated 08/09/05 and 08/15/05

A physical therapy evaluation with Thomas T. Marcee, P.T. dated 08/09/05

Physical therapy with Mr. Marcee dated 08/09/05, 08/11/05, 08/15/05, 08/29/05, 08/30/05, and 08/31/05

An x-ray of the right knee interpreted by H. E. Smiley, M.D. dated 08/09/05

An evaluation with A.I. Saheba, M.D. dated 08/29/05

An evaluation with S. Erik Vinge, M.D. dated 08/31/05

An operative report from Richard Westbrook, M.D. dated 11/17/05

A Designated Doctor Evaluation with Darrell D. English, D.O. dated 12/01/05

A letter from Dr. English dated 12/07/05

Functional Capacity Evaluations (FCEs) with Ann Marie Alexander, O.T.R. dated 05/22/06 and 09/07/06

Evaluations with Dr. Westbrook dated 06/14/06, 07/26/06, 08/23/06, and 09/20/06

Work conditioning/work hardening summaries from Ms. Alexander dated 06/22/06 and 06/30/06

Letters of non-certification from SRS dated 07/06/06, 09/14/06, and 10/04/06

A Required Medical Evaluation (RME) from James Hood, M.D. dated 08/02/06

Therapy referrals from Dr. Westbrook dated 08/23/06 and 09/20/06

Clinical History Summarized:

Physical therapy was performed with Mr. Marcee from 08/09/05 through 08/31/05 for a total of six sessions. X-rays of the right knee interpreted by Dr. Smiley on 08/09/05 revealed osteophytes and bony hypertrophy in the knee. On 08/15/05, Ms. Rose recommended kneepads as needed and regular work duty. On 08/29/05, Dr. Saheba recommended Ibuprofen, Biofreeze,

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a knee brace, a cane, physical therapy, and modified work duty. On 08/31/05, Dr. Vinge recommended physical therapy and modified work duty. On 11/17/05, Dr. Westbrook performed a right knee arthroscopy and total meniscectomy. On 12/01/05, Dr. English felt the patient was not at Maximum Medical Improvement (MMI) and recommended physical therapy and work hardening. An FCE with Ms. Alexander on 05/22/06 revealed the patient could not function in full work duty as a mechanic and a work conditioning program was recommended. On 06/14/06, Dr. Westbrook also recommended a work hardening program. Work hardening summaries were provided by Ms. Alexander on 06/22/06 and 06/30/06. SRS wrote letters of non-certification for the work hardening program on 07/06/06, 09/14/06, and 10/04/06. On 07/26/06, Dr. Westbrook continued to recommend a work conditioning program. On 08/02/06, Dr. Hood recommended a series of lubricant injections once a year, anti-inflammatory medications, four weeks of physical therapy, another FCE, and an eventual total knee procedure. Another FCE with Ms. Alexander was performed on 09/07/06 and a work conditioning program was recommended. On 09/20/06, Dr. Westbrook continued to recommend the work conditioning program.

Disputed Services:

Right knee work conditioning (97545-WC, 97546-WC) for 80 hours

Decision:

I disagree with the requestor. The right knee work conditioning (97545-WC, 97546-WC) for 80 hours would not be reasonable or necessary.

Rationale/Basis for Decision:

The patient has been subject to serial Functional Capacity Evaluations (FCEs). In between, there have been attempts at treatment. The patient has not progressed. In fact, in several categories, he appears to have regressed. Simply put, the patient is not responding to the treatment. When one does not respond to treatment, there is no justification to proceed with further treatment. This patient had several factors that exacerbate his inability to benefit from the treatment, which include his morbid obesity and preexisting work conditioning. These will not be modified by 80 hours of work conditioning and are not due to the compensable injury. Therefore, in my opinion as a board certified orthopedic surgeon, there are several reasons why this individual could not proceed with work conditioning.

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Criteria utilized: ACOEM, Chapter 5, Page 83.

The rationale for the opinions stated in this report are based on clinical experience and standards of care in the area as well as broadly accepted literature which includes numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician with RYCO MedReview is deemed to be a Division decision and order.

YOUR RIGHT TO REQUEST A HEARING

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. A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk
TDI-Division of Workers' Compensation
P. O. Box 17787
Austin, TX 78744

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.

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I hereby verify that a copy of this Independent Review Organization's decision was sent to the respondent, the requestor, DWC, and the patient via facsimile or U.S. Postal Service this day of 11/21/06 from the office of RYCO MedReview.

Sincerely,

Laura White
Secretary/General Counsel