

MEDICAL REVIEW OF TEXAS

[IRO #5259]

10817 W. Hwy. 71

Phone: 512-288-3300

Austin, Texas 78735

FAX: 512-288-3356

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-07-0250-01
Name of Patient:	
Name of URA/Payer:	Federal Insurance Company
Name of Provider: (ER, Hospital, or Other Facility)	Texas Health
Name of Physician: (Treating or Requesting)	John D. Botefuhr, DC

December 27, 2006

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on the Division of Workers' Compensation Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

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Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: _____
Texas Health
John D. Botefuhr, DC
Division of Workers' Compensation

RE: ____

DOCUMENTS REVIEWED

1. Correspondence, examination and treatment records from the treating doctor
2. Carrier Reviews
3. 08/18/06 Texas Health letter requesting 10 Sessions of Chronic Pain Management
4. 08/25/06 Texas Health letter requesting reconsideration for 10 Sessions of Chronic Pain Management
5. 08/17/06 Texas Health Physical Therapy Evaluation and Treatment Plan
6. 09/13/06 Impairment Rating by Trenton Weeks, D.C.
7. 04/27/06 Initial FCE
8. Interdisciplinary Program Team Conference Reports
9. Report of Bradley J Eames, D.O
10. 12/09/05 Behavioral Medicine Consultation
11. Operative Report of John Milani, M.D.
12. Designated Doctor Report of Harold Marshall, M.D.
13. 08/30/05 Interim FCE
14. Lumbar MRI report
15. Treatment notes of Deno Barroga, MD

CLINICAL HISTORY

The claimant underwent lumbar MRI, chiropractic care, 3 ESIs, surgery for a herniated lumbar disc, post operative rehabilitation and chronic pain management after sustaining injury at work on ____ when he squatted and pushed a 70-100 pound tire.

REQUESTED SERVICE(S)

Preauthorization for 10 sessions of chronic pain management (97799-CP).

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

In the preamble of the Texas Workers Compensation Commission's amendments to rule 134.600, the Commission states as follows: "Over-utilization of medical care can both

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endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers' compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop." ¹ In its report to the legislature, the Research and Oversight Council on Texas Workers' Compensation explained its higher costs compared to other health care delivery systems by stating, "Additional differences between Texas workers' compensation and Texas group health systems also widen the cost gap. These differences include...in the case of workers' compensation, the inclusion of costly and questionable medical services (e.g., work hardening/conditioning.)" ² In this case, the provider's chronic pain management program was just the type of questionable services of which the TWCC and the legislature spoke when expressing concern in regard to medically unnecessary treatments that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs.

Physical medicine is an accepted part of a rehabilitation program following an injury and/or surgery. However, for medical necessity to be established there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include: (A) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (B) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. (C) Evidence of objective functional improvement is essential to

¹ 26 Tex. Reg. 9874 (2001)

² "Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers' Compensation System," Research and Oversight Council on Workers' Compensation, Report to the 77th Legislature, page 6.

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establish reasonableness and medical necessity of treatment. Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. In this case, there is no documentation of objective or functional improvement in this patient's condition and no basis to justify additional treatment in the absence of positive response to prior treatment.

Current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises. There is also no strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care."³ The literature further states "...that there appears to be little scientific evidence for the effectiveness of multidisciplinary biopsychosocial rehabilitation compared with other rehabilitation facilities..."⁴ And a systematic review of the literature for a multidisciplinary approach to chronic pain found only 2 controlled trials of approximately 100 patients with no difference found at 12-month and 24-month follow-up when multidisciplinary team approach was compared with traditional care.⁵ Based on those studies, a continuation of a treatment program that has not yielded any significant benefit would not be medically necessary.

And finally, the records fail to substantiate that a continuation of the treatment would fulfill statutory requirements⁶ for medical necessity since the previous 20 sessions provided no relief,

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

⁴ Karjalainen K, Malmivaara A, van Tulder M, Roine R, Jauhiainen M, Hurri H, Koes B. Multidisciplinary biopsychosocial rehabilitation for neck and shoulder pain among working age adults. Cochrane Database Syst Rev. 2003;(2):CD002194.

⁵ Karjalainen K, et al. Multidisciplinary rehabilitation for fibromyalgia and musculoskeletal pain in working age adults. Cochrane Database of Systematic Reviews 2000;2.

⁶ Texas Labor Code 408.021

RE: ____

promotion of recovery was not accomplished, and there was no enhancement of the employee's ability to return to or retain employment. Specifically, the claimant's flexion and extension lumbar ranges of motion - as well as his left straight leg raising - actually decreased from the 07/11/06 examination (just prior to initiation of the chronic pain management program) to the 09/13/06 impairment rating examination (after the conclusion of the first 20 sessions of the chronic pain management program.) Therefore, since the patient is not likely to benefit in any meaningful way from repeating unsuccessful treatments, the proposed additional treatments are medically unnecessary.

Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the 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.

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
Division of Workers' Compensation
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with 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 27th day of December, 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell