

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-07-0409-01
Name of Patient:	
Name of URA/Payer:	Zurich American
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Kenneth G. Berliner, MD

December 27, 2006

An independent review of the above-referenced case has been completed by a physician board certified in orthopedic surgery. 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.

December 27, 2006
Notice of Independent Review Determination
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Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: _____
Kenneth G. Berliner, MD
Division of Workers' Compensation

RE: _____

DOCUMENTS REVIEWED

1. Kenneth G. Berliner, MD – Evaluation 7/13/04, 9/7 and 9/21/04, 10/12/04, 12/13/04, 2/18/05, 8/16/05, 11/29/05, 12/5, 12/9, 12/13, and 12/23/05, 1/23/06, 3/13/06, 8/21/06. A letter written by Dr. Berliner was dated 11/10/06. Letter of medical necessity written by Dr. Berliner dated 10/4/06. Operative reports from Dr. Berliner for arthroscopic surgery of the patient's left knee 2/10/06, arthroscopic surgery on her right knee from 9/24/04, 11/21/05 and 12/13/05. X-ray report of x-rays of the left knee from Dr. Berliner 8/21/06 and right knee x-ray report of 9/21/04.
2. Downtown Plaza Imaging – Lumbar epidural steroid injections 8/4 and 8/25/04.
3. Zurich Services Insurance – Non-authorization of right patellofemoral joint arthroplasty 9/6 and 9/27/06.
4. North Houston Imaging – MRI of the right knee 4/7/06.
5. Computerized Muscle Testing – 1/23/06.
6. Lab Corp – Culture and Sensitivity of left knee 2/13/05.
7. Quest Diagnostic – Lab work results from 10/20/05 and 11/4/05.
8. Lumbar Diagnostic Imaging – x-rays and MRI of the right knee 8/25/05.
9. Myer Proler, MD – EMG and nerve conduction studies of the lower extremities 5/19/04.
10. North Houston Imaging – MRI of both knees and lumbar spine 6/2/04.
11. Chiropractic and Injury Rehab – Byron K. Menard, DC 8/4/06, 5/2/06, 4/12/06, 8/1/05, 6/28/05, 6/2/06, 3/7/06, 2/7/06.
12. George Henry Lane, MD – Designated doctor evaluation 9/7/05 and designated doctor evaluation TWCC69 6/7/06.
13. Texas Anesthesia Pain Center – MD, PA Evaluation 7/3/06 and 5/22/06.
14. Alex T. Nguyen, MD – Evaluation 11/8/05.
15. Interactive Pain Management – Notes from 6/29/05 and 7/19/05.
16. Andrew McKay, MD – 6/28/05.
17. Denise Turboff, MED, LPC – Evaluation 5/13/05.
18. William F. Donovan, MD – Evaluation 6/2/04.

RE: ____

CLINICAL HISTORY

In May 2004 this woman, who was 33-years-old at the time, was employed as a nurse's assistant. She lifted a patient to weigh him. The weight shifted and she developed back and bilateral knee pain.

On 6/22/04 the patient had x-rays and MRI of her lumbar spine which were reportedly normal. X-rays and MRIs of both knees were also obtained. The right knee MRI was compatible with a bone contusion of the lateral femoral condyle.

The patient was under the care of Byron K. Menard, DC who treated her with therapy. She was referred to Kenneth G. Berliner, MD an orthopedic surgeon. Dr. Berliner had performed an arthroscopic surgery and lateral retinacular release on the patient's left knee on 2/2/05. He has performed multiple surgical procedures on her right knee.

On 9/24/04 the patient had a right knee arthroscopy. The operative report indicates that she underwent a partial medial meniscectomy. She was also found to have Grade III chondromalacia of the patella and had a chondroplasty of the patella. On 11/21/05 she underwent an arthroscopic lateral retinacular release of the right knee. This was followed by an incision and drainage of her wound for a wound infection on 12/13/05.

None of these surgical procedures have been of any benefit to this patient with regards to her right knee pain. She has been treated with physical therapy, nonsteroidal anti-inflammatory medications, glucosamine/chondroitin, psychological counseling and pain management. All of these treatments have been to no avail.

REQUESTED SERVICE(S)

Right knee patello femoral joint arthroplasty.

DECISION

Denied.

RE: ____

RATIONALE/BASIS FOR DECISION

The medical records indicate that this woman is 5' tall weighing approximately 190 pounds. The patellofemoral arthritis necessitating this procedure is a pre-existing condition. The mechanism of the injury described in the medical records would not have produced patellofemoral arthritis. Further, Grade III chondromalacia of the patella was documented to be present at the time of an arthroscopy performed approximately 6 months subsequent to the injury. This worker's compensation injury may have produced a contusion of the lateral femoral condyle that was present on her MRI obtained on 6/24/04. It was not reported on subsequent MRIs performed on 8/25/05 or 4/7/06 indicated that this bone contusion produced by this injury was healed. The injury would not have produced patellofemoral arthritis.

To reiterate, the mechanism of injury would not have produced this patellofemoral arthritis. It would have produced the lateral femoral condyle bone contusion.

Further, this obese patient in her 30's with chronic pain is a poor candidate for a patellofemoral condyle arthroplasty. All of the factors (her youth, weight and her chronic pain) mitigate a successful outcome from this procedure.

There is no documentation in the medical records that her right quadriceps strength has ever been restored after 3 surgical interventions. Without good rehabilitation, patellofemoral surgery will not be successful. Before further surgery is contemplated it is important to know that her knee has been maximally rehabilitated.

In conclusion, this obese woman who is now 36-years-old is a poor surgical candidate for patellofemoral arthroplasty for all of the reasons described above.

RE: ____

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 29th day of December, 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell