

NOTICE OF INDEPENDENT REVIEW DETERMINATION

MDR Tracking Number: M2-04-0421-01
IRO Certificate Number: 5259

December 10, 2003

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

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission 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 ___.

Sincerely,

CLINICAL HISTORY

___, a 50-year-old male, sustained a lower back injury while on the job working as a truck driver. He subsequently underwent two surgeries: in January 2001, he had a L4/L5 fusion with pedicle screws and hardware, which resulted in worsening of right leg pain. Subsequently bilateral hemilaminectomies and partial facetectomies with removal of hardware in December 2002. He underwent a plethora of conservative care measures, progressing through work hardening and chronic pain management. His treating doctor appears to be currently ___ a chiropractor, who is supervising his chronic pain

management program. A prescription for an RS4i muscle stimulator was made by both ___ and a pain management specialist, ___, in April 2003. This was then used by the patient for the subsequent two months. There is good evidence for the use of the stimulator by the patient provided in the documentation. The treating doctor notes in his record that the patient reported benefit from the device. There is also a psychological evaluation performed by ___ on 7/23/03 in which she mentions "the patient states that the only thing that helps his pain is to lie down in bed, take medication and use the muscle stimulator".

A prescription for purchase of the muscle stimulator was written by ___ in July 2003. This has been denied for payment based on medical necessity and is thus referred for medical dispute resolution purposes through the IRO process.

REQUESTED SERVICE(S)

Purchase of an Interferential Muscle Stimulator.

DECISION

Approve. There is establishment of medical necessity for the purchase of an interferential / muscle stimulator for this patient.

RATIONALE/BASIS FOR DECISION

While there no determination of MMI or impairment in the records, it appears that the patient is at a stationary clinical platform. He must be considered a surgical failure with ongoing functional and symptomatic complaints. The documentation does demonstrate that the patient continues with a moderately high pain level and continued clinical evidence of muscle tenderness, hypertonicity of the lumbar paravertebral musculature.

A trial of care with the stimulator has been documented with a rental period, and this form of therapy has been employed with success in the patient's care regime and therefore appears to be appropriate for continued home use.

The current standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits), is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1)

cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

The provided documentation shows that the standard of medical necessity, as required by 408.021 (part 1) has adequately been met in this particular case.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such and may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
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 Commission 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 12 day of December 2003.