MEDICAL REVIEW OF TEXAS

[IRO #5259]

10817 W. Hwy. 71 **Austin, Texas 78735**
Phone: 512-288-3300 **FAX: 512-288-3356**

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	___
MDR Tracking Number:	M2-05-2334-01
Name of Patient:	___
Name of URA/Payer:	Liberty Mutual Fire Insurance
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Richard Kondejewski, MD

October 5, 2005

An independent review of the above-referenced case has been completed by a medical 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.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: ___
Kenneth G. Berliner, MD
Richard Kondejewski, MD
Division of Workers' Compensation

RE: ___

CLINICAL HISTORY

Records reviewed included:

- Records submitted by Liberty Mutual Group including reviews/appeals by Professional Reviews, Inc.; LoneStar Orthopedics; Imaging Institute of Texas; United Neurology; Orthomed; and
- Additional records submitted by Liberty Mutual Group to include Harris County Hospital medical records; Memorial Surgical Center records; Universal Medical Evaluators; The Palladium for Surgery Houston (Kenneth Berliner, MD); MES Solutions; Pain-Aid Chiropractic & Medical Clinic (Richard Kondejewski, MD); Orthopedic Care Center; MEDTEX; Magnolia Chiropractic Clinic; Designated Doctor Evaluation (A. Khalifa, MD).

This patient is a 38-year-old man who fell backwards down stairs and landed on his back on a concrete floor on ___. He has pain along his entire spine and both shoulders; more so on the left than the right. He was transferred to Ben Taub General Hospital that day where x-rays were obtained and he was released to home with medications.

Mr. ___ subsequently came under the care of Richard Kondejewski, MD and was initially treated with anti-inflammatory medications and a course of physical therapy. MRIs of the cervical spine and left shoulder were obtained at Imaging Institute of Texas on 4/19/04. The cervical MRI was reportedly normal. The left shoulder MRI was reportedly compatible with mild supraspinatous tendonitis. EMG and nerve conduction studies were performed by M. Athari, MD on 5/17/04 that were reportedly normal.

Because of ongoing left shoulder pain Mr. ___ was referred to an orthopedic surgeon, Lubor Jarolimek, MD. Initial treatment included continuation of conservative care with injections including a Botox injection in the area of the left shoulder. Because of ongoing pain and stiffness, an MR arthrogram was performed at the Imaging Institute of

Texas on 7/13/04. It was reportedly compatible with supraspinatous and infraspinatous tendonosis and adhesive capsulitis. No rotator cuff tear was noted.

RE: ___

Dr. Jarolimek finally took the patient to the operating room on 9/22/04 with a diagnosis of adhesive capsulitis of the left shoulder. The procedure performed was a left shoulder manipulation. Prior to the manipulation with the patient awake, left shoulder range of motion was reportedly 60° of abduction and 90° of flexion. Under anesthesia prior to the manipulation 160° of both flexion and abduction was achievable.

With manipulation 180° of flexion, 160° of abduction, 90° of internal rotation and 80° of external rotation was achievable.

Post operatively the patient had ongoing complaints of left shoulder pain and stiffness. Further physical therapy was administered. Dr. Kondejewski documented on 1/7/05 that it was Dr. Jarolimek's opinion that the patient had significant functional overlay. The patient also had a psychiatric evaluation by Manizeh Mirza-Gruber, MD on 12/16/04 that identified underlying psychiatric problems. The patient was also hospitalized from 10/24-27/04 with a complaint of hemoptosis. An extensive work up was undertaken. It did not appear from the medical records that significant organic pathology was identified.

On 5/25/05 the patient came under the care of a different orthopedic surgeon, Kenneth G. Berliner, MD. Dr. Berliner documented that left shoulder flexion was to 70° and abduction was to 30°. He also had computer muscle testing performed which showed diffuse muscle weakness involving the entire left upper extremity which was inconsistent with a normal EMG and cervical MRI. Dr. Berliner requested arthroscopic lysis of adhesion and manipulation of the left shoulder.

On 8/18/05 the patient was taken to the operating room for left shoulder manipulation. Arthroscopy was denied by the insurance carrier. Pre-manipulation range of motion measurements with the patient anesthetized were not recorded in the operative record. However post-manipulation of 170° of flexion, 180° degrees of abduction, extension 30°, adduction 45°, external rotation 95° and internal rotation of 60° was achieved. It was not recorded as to how the range of motion measurements compared to the right upper extremity.

The patient was last seen by Dr. Berliner on 8/30/05 approximately 2 weeks post-operatively. At that juncture 60° of left shoulder abduction and 20° of external rotation was noted. A request for a second surgical intervention was submitted.

REQUESTED SERVICE(S)
Left shoulder arthroscopy and manipulation.

DECISION
Denied.

RATIONALE/BASIS FOR DECISION
Mr. ___ underwent left shoulder manipulation on 2 previous occasions. Both resulted in intra-operative excellent range of motion. On the first occasion it was documented that the range of motion achievable under anesthesia pre-manipulation was significantly better than that demonstrated by the patient when he was awake. This documentation was absent in the second operative report. Further, this patient at 2 weeks subsequent to his last manipulation reportedly had marked loss of range of motion of his shoulder. It is beyond reasonable medical probability to expect severe adhesions to recur in such a brief time. Further, objective testing in the form of MRIs, EMG and nerve conduction studies and MR arthrograms failed to show pathology to produce the degree of disability that this patient alleges. Also there is documentation to support a significant functional component to this patient's problem.

In conclusion, the documents do not support that it is in the best interest to have a third surgical procedure performed on Mr. ___' left shoulder when he is known to have overlying psychiatric issues and when the degree of symptomatology demonstrated far exceeds the objective findings.

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 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 5th day of October 2005.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell