

May 14, 2002

Re: Medical Dispute Resolution
MDR #: M2-02-0489-01
IRO Certificate No.: I RO 5055

Dear

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). Texas Worker's Compensation Commission Rule 133.308 "Medical Dispute Resolution by an Independent Review Organization", effective January 1, 2002, allows an injured employee, a health care provider and an insurance carrier to appeal an adverse determination by requesting an independent review by an IRO.

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to ___ for an independent review. ___ has performed an independent review of the medical records to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician Board Certified in Pain Management.

THE PHYSICIAN REVIEWER OF THIS CASE DISAGREES WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER ON THIS CASE.

I am the Secretary and General Counsel of ___ and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

We are forwarding herewith a copy of the referenced Medical Case Review with reviewer's name redacted. We are simultaneously forwarding copies to the patient, the payor, and the Texas Workers' Compensation Commission. This decision by is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this 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 **ten (10)** days of your receipt of this decision (28 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 **twenty (20)** days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This Decision is deemed received by you **five (5)** days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5 (d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings
Texas Workers' Compensation Commission
P.O. Box 40669
Austin, TX 78704-0012

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.

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 14TH day of May, 2002.

Sincerely,

Secretary & General Counsel

MEDICAL CASE REVIEW

This is for _____. I have reviewed the medical information forwarded to me concerning Case File #M2-02-0489-01, in the area of Pain Management. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Request for Medical Dispute Resolution for IDET (intradiskal electrothermal therapy) at L5-S1.
2. Summary of carrier's position.
3. Records of April 2001.
4. Records of July and August 2001.
5. Records of November and December 2001.
6. Treatment research.

B. SUMMARY OF EVENTS:

The patient is a 30-year-old female for whom they are requesting IDET at two different levels, to be done six weeks apart. The first level to be done is supposed to be L5-S1, followed by L4-5 at a later date. This has been denied by the Utilization Review agent in this case on the basis of (1) the efficacy of IDET not being proven and (2) the expected outcomes have not been determined, and this procedure has not been endorsed by the American Academy of Orthopedics or Neurosurgeons or by the American Academy of Physical Medicine. It was also stated that the patient had a positive straight-leg raising test, and, finally, that no dye volumes are recorded during the diskogram.

From the point of view of the presenting doctor requesting this procedure, it is noted that the patient had an MRI on April 30, 2001, which showed a desiccated L5-S1 disk with an annular fissure. Initially, the patient presented with radicular pain in the right leg and also with numbness in some portions of her right foot. She had previously had physical therapy for two months, three days a week, and work hardening for

three weeks, five days a week. The patient is reported to be 5 ft. 3 in., weighing 162 pounds. They reported in their records that the patient had a negative straight-leg raising test bilaterally, both sitting and lying. She was also reported to have normal reflexes and normal strength in the lower limbs. She had had previous epidural steroids done through the caudal route x 3, with no significant improvement in her pain of any duration.

On diskograms which were done at L3-4, L4-5, and L5-S1, on the L4-5 she had a grade 4 tear on the left posterolateral margin. A post-diskogram CT showed no dye in the L5-S1 space and otherwise was reported as normal. L3-4 was normal. On the diskograms done on December 14th at the above-mentioned levels, L3-4, L4-5, and L5-S1, it was recorded that 1 cc of dye was used at each level. At L3-4, there was an opening pressure of 25 psi with no pain produced at 57 psi. At L4-5, it showed a grade 4 to 5 tear with an opening pressure of 17 psi and concordant pain developing at 22 psi. At L5-S1, there was an opening pressure of 5 which is substantially low with produced concordant pain of 4/4 at 17 psi.

It should be noted that the Utilization Review agent in this case stated that this patient did not meet the inclusion or exclusion criteria based on Saal and Saal who were both pioneers in IDET development and produced one of the first papers on this. By my reading of the presenting physician's report, it seems as though the patient presented with a significant number of the inclusion criteria and none of the exclusion criteria, based on the fact that she first presented with radicular pain down her right leg. It should be noted that the post-diskogram CT showed that there was a bulge on the left side with a grade 4 tear on the left side on the L4-5 diskogram.

The inclusion criteria that she fulfilled include the fact that she had axial lower back pain for at least 6 months' duration; she had had at least 8 weeks of conservative therapy; the diskogram showed abnormal anatomy and concordant pain production at fairly low pressures and volumes; and the physician did recommend an IDET. She also had a negative straight-leg raising test at greater than 60 degrees. She had significant functional limitations and sitting duration, and the physical examination seemed to suggest that she had diskogenic pain at the planned levels. She also had a normal neurological exam in that she had normal motor and sensory functions. She also had no more than two levels of disk desiccation on the MRI. The exclusion criteria which she did not fulfill included she did not have more than three disk levels proposed. There was no evidence of nerve root impingement or thecal sac impingement. Her primary complaint was not leg pain. She had no spinal or canal stenosis. The disk height was relatively well maintained and there was no evidence of disk fragment or severe herniation. No previous IDET's had been performed, and she has not had previous fusions. She also has no spondylolisthesis. She is between the recommended ages of 18 and 60.

C. OPINION:

I DISAGREE WITH THE DETERMINATION MADE BY THE UTILIZATION REVIEW AGENT ON THIS CASE BASED ON THE ABOVE-STATED REASONS.

I would, therefore, recommend that approval be given for the IDET to be done at L5-S1, and if this improves her pain after six weeks and it seems to be necessary, then possibly the need for IDET at L4-5 may also be demonstrated.

D. DISCLAIMER:

The opinions rendered in this case are the opinions of this evaluator. This medical evaluation has been conducted on the basis of the documentation as provided to me with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional service, reports or consideration may be requested. Such information may or may not change the opinions rendered in this evaluation. My opinion is based on the clinical assessment from the documentation provided.

Date: 13 May 2002