NOTICE OF INDEPENDENT REVIEW DECISION

May 7, 2002

Requestor Respondent

RE: Injured Worker:
MDR Tracking #: M2-02-0532-01
IRO Certificate #: 4326

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a _____ physician reviewer who is board certified in neurosurgery which is the same specialty as the treating physician. The _____ physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to _____ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This 47 year old patient sustained a work related injury while moving a palette. Conservative management and workup led to a surgical procedure in 1998 performed by a neurological surgeon. This surgical procedure included decompressive laminectomy and spinal instrumentation with posteriolateral fusion. The spinal instrumentation was locked cephalad with two pedicle screws in L4. L5 was bypassed and the lower caudad portion of the construct was anchored with pedicle screws in the sacrum. In addition to laminectomy, posterolateral transverse process fusion was accomplished. Evidently the patient did not do well and subsequently underwent removal of the original construct, implying that the fusion from L4 to S1 was solid and this was replaced with a segmental instrumentation and pedicle screw fixation of L3-4 alone. This was accompanied by decompressive laminectomy. Again the patient did not do well and subsequently a third operation, with removal of the remaining construct at L3-4 implying mechanical stability, was performed and a decompression of the far lateral nerves from L4 to S1. The patient has not done well and further diagnostic studies have been performed. According to the CT scan performed 11/14/00, after injection of myelographic contrast, there was no significant disc bulge or focal disc herniation or spinal stenois. A MRI done 11/14/00 revealed intact hardware and spinal alignment at L3-4 with nothing to suggest significant disc bulge, focal herniated disc or spinal stenosis. A more recent scan performed 05/10/01 noted that the pedicular screws at L3-4 had been removed, again signifying, presumably, that the fusion was satisfactory, On this study, there was a right paracentral broad based disc protrusion creating a mild spinal stenosis, unchanged from previous exams. There was also moderate spinal stenosis at L2-3 with ligamentum flavum hypertrophy and this appeared to be significant spinal stenosis. These findings

were present despite the fact that this area was decompressed at the previous surgical procedure. Significant, however, is the fact that there was a fluid filled cyst measuring 3.5cm by 1.5cm in depth. This was most likely a pseudomeningocele formed by leakage of cerebral spinal fluid from a rent in the dura during surgery.

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The most recent diagnostic procedure was that of lumbar discography on 10/15/01. This procedure consisted of injection of the T12-L1 disc, the L1-2 disc, the L2-3 disc, the L3-4 disc and the L3-4 disc. In the description of the patient's response to injection, there is noted to be mild concordant pain, meaning reproduction of the patient's original symptomatology at L1-2, L2-3, and L4-5. At L3-4 the pain was described as "severe concordant pain".

Requested Service(s)

Intradiscal Electro Thermal Therapy (IDET)

Decision

It is determined that the IDET is not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

**Preferred Inclusion Criteria:**

Negative straight leg raising test (SLR exam) to sixty degrees
Physical examination does not confirm the presence of negative straight leg raising.

History indicates significant functional limitation during sitting
No documentation of this limitation in the medical record.

Physical exam notes suspicion of discogenic pain at planned level
It is impossible from the medical record to determine which discs the surgeon considers to be the pain generators of discogenic pain.

Normal neurologic examination (normal motor and sensory function, without lower extremity pain as primary complaint)
This patient has documented neurologic deficits including weakness of the extensor hallucis longus muscle and the anterior tibial muscle on the left hand side. This is accompanied by dermatomal sensory deficit in the L4 and L5 nerve root distributions. The patient also has leg pain which is not her primary pain but is certainly present.

**Potential Exclusion Criteria:**

Nerve root impingement, compression with primary complaint of lower pain.
Thermal sac impingement compression with primary complaint of lower leg pain
The most recent MRI scan demonstrates right paracentral broad based disc bulge at L3-4 creating a mild spinal stenosis and moderate spinal stenosis at L2-3 from ligamentum flavum hypertrophy and significant spinal stenosis. Therefore, both nerve root and thecal sac are impinged upon at those levels.

Moderate to severe spinal or can (central, lateral or foraminal stenosis)
Answered in above comment.

Previous fusion
The patient has had a previous instrumentation and fusion at L3-4, L4-5 and L5-S1.

In short, the presumption that thermocoagulation of L1-2, L2-3, and L3-4 will provide a minimally invasive option to prevent future degeneration and symptoms at these levels, is not based on scientific reality.

This decision by the IRO is deemed to be a TWCC decision and order.

**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. A request for hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) 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 (28 Tex. Admin. Code '102.4(h) or 102.5(d)). A request for hearing, along with a copy of this decision notice, should be sent to:

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

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

Sincerely,

cc: David Martinez, Chief Medical Dispute Resolution, Medical Review Division, TWCC

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 _____day of _____2002.

Signature of IRO Employee:

Printed Name of IRO Employee: