

May 14, 2002

Re: Medical Dispute Resolution
MDR #: M2-02-0550-01-SS
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 Neurology.

THE PHYSICIAN REVIEWER OF THIS CASE AGREES 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 MDR #M2-02-0550-01-SS, in the area of Neurological Surgery. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

Records pertaining to case MDR #M2-02-0550-01-SS.

B. SUMMARY OF EVENTS:

The records reviewed begin the day of the incident, _____, when the patient was seen by _____. These records are very pertinent because the patient was seen within 2 to 3 hours after the alleged accident, and the records of the patient's complaints, apparently completed by the patient, indicate a list of severe symptoms, and it is suggested that this condition has been ongoing, as stated in the list of symptoms by the patient, for some time prior to the alleged injury on the job.

The patient was then seen by _____ who apparently became the treating physician.

The patient was next seen by _____, who is an orthopedic surgeon. Electrodiagnostic studies were accomplished by _____ who is a neurologist. The patient was then seen by _____, who is an anesthesiologist/pain management physician.

The patient elected not to have epidural steroid injections, and was then seen by _____, who is a neurological surgeon. We do not have a copy of the original consultation visit with _____; however, apparently, he decided that the patient needed a surgical procedure.

The patient was seen for a mandatory second opinion consultation by _____, who is also a neurosurgeon.

The patient was then admitted to the hospital on 3/26/01 by _____ for his surgical procedure.

The pertinence of all these records is that no objective verifiable functional neurological abnormality is recorded by any of these physicians and the studies they performed. The only abnormality that was apparent was radiological and related to the MRI scan in the L-3, L-4, and L-5 levels. Therefore, it seems

to me that there is no objective indication verified in this patient to justify this surgical procedure which was a two-level decompressive laminectomy at the left L-3 and left L-4 levels; no significant herniated disk was found at L-3, and a disk was removed at L-4.

No post-op visits with ___ are present. However, the patient was seen by ___ on 4/12/01 and was still complaining of sharp pains in the low back. He continued to be seen by ___, and his symptoms ultimately redeveloped to the same or greater level that had been present preoperatively.

He was ultimately seen by ___ on 8/16/01 and provided a history that he had been fired from his job and that he continued to have the same symptoms as previously. ___ at that time suggested that the condition may be associated with secondary gain factors. ___ notes indicate that ___ opined that the patient had probable MMI on 9/17/01.

The patient was then referred by ___ to another neurosurgeon, ___, and his neurological examination does not suggest any significant neurological change. Nevertheless, to try to explain the patient's symptoms and recommend some treatment, the doctor suggested that epidural scarification was significant and he should have diskography to evaluate where the pain was coming from. This was accomplished by ___ at ___, and diskography was accomplished at the L-2, L-3, L-4, and L-5 interspaces.

He was then seen by ___ again and announced that he would prefer a surgical procedure rather than anymore drawn-out or longer period of treatment. At that time, the patient was referred for an independent evaluation.

C. OPINION:

Based on this review of the entire course of this patient since the alleged injury, it is my opinion that the patient likely had symptoms related to his low back prior to the date of his alleged injury. It is further my opinion that the initial surgical procedure was not neurologically or neurosurgically or medically indicated, based on objective findings. The patient's complaints from the very beginning suggested that the described syndrome was more severe than possibly related to the injury described, that it probably had been pre-existing, and that, in all likelihood, it was more psychological than organic.

I, therefore, would recommend that this patient not be subjected to additional surgical manipulation without a careful psychological evaluation including an MMPI and without a vigorous rehabilitative exercise program which would be self-performed in a progressive fashion with the purpose of physical and muscular maximal fitness. He should not be provided additional narcotic-type drugs which he has been taking for the entire period since November 2000, but he may need some psychoactive medication, antispasmodic medication, etc., for symptomatic relief during his treatment period.

It is further my opinion that additional surgical manipulation will not benefit this patient and will tend to fixate his symptoms in a permanent fashion. It may well be that this patient is past the possibility of rehabilitation to a productive worker at the present time. If he is to be rehabilitated, it has to be psychological and rehabilitative, in my opinion.

I AGREE WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER ON THIS CASE.

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: 10 May 2002