

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-02-3523.M2

May 23, 2002

Re: Medical Dispute Resolution
MDR #: M2-02-0593-01

IRO Certificate No.: IRO 5055

Dear

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). Texas Workers' 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 Physical Medicine and Rehabilitation.

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 23rd 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 #M2-02-0593-01, in the area of Physical Medicine and Rehabilitation, particularly Pain Management programs. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Request for review of denial of reimbursement of multi-disciplinary 20-day pain program.
2. ___ correspondence and documentation.
3. Office notes of the consulting doctor, ___.
4. Operative reports for nucleoplasty.
5. Physical therapy progress notes.
6. Procedure notes, MRI of the lumbar spine.

B. SUMMARY OF EVENTS:

This is a gentleman who was working as an emergency medical technician and was responding to a call and had to lift a morbidly obese patient from a couch to a stretcher. It would appear that there was a sudden onset of low back pain. He then sought care and noted significant lumbar burning and pain. He was referred to ___ office from ___ for additional workup and evaluation of his low back pain. ___ reviewed the MRI which apparently notes a disk desiccation at L3-4 and L4-5 and a mild "2-3 mm" low paracentral herniated nucleus pulposus at L5-S1 affecting the left S-1 nerve root. He underwent physical therapy and had marginal, if any, results. ___ then had electrodiagnostic studies completed by ___, and an entirely normal electrodiagnostic assessment was identified.

At that point, additional diskography was completed, and there were relatively high pressures with no concordant pain with the exception of at the L3-4 and L4-5 levels. This then prompted ___ to complete two separate nucleoplasty procedures, 90 days apart, at the L3-4 and the L4-5 levels. According to ___, the patient did quite well with these procedures, and he had a marked improvement.

After both procedures were completed, he was doing reasonably well. He initially had some difficulties with his activities of daily living, but he was gaining strength at each subsequent visit. He was entered into a lumbar support and aquatic program and did reasonably well.

In November of 2001, ___ referred this individual to the Positive Pain Management, Inc. program for a psychological evaluation. ___ is the Medical Director of this clinic, and ___ completed the assessment. At that time, it was noted that there was a chronic pain diagnosis made by the psychologist.

Subsequent to that, a request was made for entry into a 20-day chronic pain program, and this was provided for direct determination by a physician reviewer for ___. The determination at that time was that the pain program was too close to the completion of the second nucleoplasty. It appeared that the physician's assistant for ___ agreed with the determination. Subsequently, this decision was appealed, and it appears that there was an additional adverse determination, but I am not certain about the physician reviewer at that time.

C. OPINION:

I AGREE WITH THE DETERMINATION MADE BY THE UTILIZATION REVIEW AGENT ON THIS CASE TO DENY THE 20-DAY PAIN MANAGEMENT PROGRAM.

This is a well-developed, well-nourished, rather young gentleman who clearly had a lumbar strain associated with his compensable injury. The course of the evaluation, particularly the MRI study, noted disk desiccation at two levels which is indicative of a degenerative process and not an acute process. This two-level degenerative disk disease was treated with surgical intervention in the form of nucleoplasty and, apparently, the patient did well. However, with the correction of the nucleoplasty secondary to the surgical intervention, the normal rehabilitation process would take over. It would appear that there was an episode of aquatic therapy and other modalities used. However, there is no indication of a chronic pain situation and there is no indication that an intensive 20-day session of chronic pain management is reasonable and necessary to treat the compensable injury. Moreover, a home exercise program emphasizing spine mobility, flexibility, and overall fitness would be indicated, but based on the materials provided, I do not see the need for a 20-day program.

The screening criteria utilized were generally accepted medical guidelines, medical literature, and other nationally accepted criteria.

In summary, there is no clinical indication provided to support the requested procedure.

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: 22 May 2002