

October 2, 2002

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M2 03 0053 01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor board certified in Orthopedic Surgery. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

This is the case of a 51 year old male with severe chronic obstructive bronchopulmonary disease with asthma who injured his lower back while lifting a pallet of wine on ___. He has seen a multitude of doctors and has had all types of conservative treatment. He has pain radiating down his left leg with difficulty controlling his bladder. Also, he has some pain radiating down the right leg. Otherwise his neurological status has been intact. He has failed conservative treatment, which includes pain medication, lumbar epidural steroid injections, physical therapy and chiropractic treatment. He is currently seeing ___ who has been discussing surgery with the patient. The surgery that has been proposed is a three level anterior lumbar interbody fusion with posterior three level decompression and instrumentation. The patient has MRI findings of a small far lateral disc herniations at L3/L4 on the left that slightly encroaches on the left L3 nerve root. He has some diffuse degenerative changes in his back and EMG evidence of a L5 radiculopathy. ___ has suggested discogram to better diagnose his problem but the carrier has not approved these studies. He has a lumbar myelogram CT scan that was done on February 27, 2001. This study demonstrated some mild spondylosis at L1-L2, L2-L3 and L4-L5. It demonstrated right side facet arthritis at L2-L3 and L5-S1. It also demonstrated moderate degenerative disc disease at L3-L4 and mild central stenosis at the L3-L4 level.

Different examiners have failed to point out any definite neurological deficit on his examination. ___ did a required medical examination on August 9, 2002. He noted that the patient had to be on portable oxygen and oral steroids because of his asthma and chronic obstructive pulmonary disease. ___ stated that the patient was not a candidate for elective back surgery under any condition except for a life threatening situation.

REQUESTED SERVICE

Anterior discectomy and interbody fusion with interbody fixation, posterior decompression, transverse process fusion, internal fixation and bone graft.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The records do not support a localized lesion in the spine that could be surgically fixed. A multiple joint procedure is not likely going to be successful in relieving this man's multiple level degenerative joint disease. The patient does not have a real significant identifiable neurological or structural compromise in his spine that can be surgically corrected. In addition, the patient's pulmonary problems apparently should prevent him from having elective back surgery.

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TDI/TWCC.

Sincerely,

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.

In the case of prospective *spinal surgery* decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within 10 days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other *prospective (preauthorization) medical necessity* disputes a request for a 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 a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(t)(2).