

October 14, 2002

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

MDR Tracking #: M2 03 0128 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.

This case was reviewed by a licensed Medical Doctor who is 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

___ is a 49 year old male who originally had back surgery on ___ when he underwent laminectomy and nerve root decompression at the L5/S1 level. Following this back operation, he did well and had no further trouble with his back until ___, at which time he again injured his back and he underwent a second back operation which was a laminectomy at the L4/L5 level. This procedure was performed by ___, a neurosurgeon. He received an excellent result from this procedure and according to the record was not having any difficulty with his back or leg. He was back at work and was doing fine until he had a third injury which occurred on ___. This was a re-injury after lifting objects at work. He developed pain in the low back with radiation down the back of the left leg all the way to the foot. He developed some numbness and weakness in the left leg. A MRI was done to evaluate these complaints. Further disc herniation was demonstrated on the MRI at the L4-L5 level on the left side. This was felt to be a recurrent disc herniation.

Epidural steroid injections were recommended and he received a series of three from ___. This was done during the months of February, March and April of 2002. This resulted in

only slight improvement. He then fell from a step ladder on ___ which resulted in an aggravation of his already symptomatic low back and leg pain. The pain did not get any better after epidural steroid injections. He developed a progressive numbness in his right leg. An EMG was done on 8/26/2002 and it demonstrated right-sided L5 and S1 radiculopathy. After failure of conservative treatment, ___ has recommended further surgery on the low back. He has pointed out that the imaging studies demonstrate narrowing and collapse of both the L4-L5 and L5-S1 interspace as a result of the disc herniations in the past and he is now having symptoms of nerve root compression due to both disc herniations in the past and he is now having symptoms of nerve root compression due to both disc material herniation as well as collapse of the interspace resulting in narrowing of the intervertebral foramina.

REQUESTED SERVICE

Posterior lumbar interbody fusion at L4-5. Decompression with lateral mass fusion L4-Sacrum. 3 Days hospitalization.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

In view of the records that have been submitted and the imaging study reports that have been submitted that the proposed surgery stated by ___ is reasonable, necessary and indicated. I agree that if the interspaces are narrowed that a distraction of the interspaces with fusion would be indicated along with posterior decompression of the nerve roots. This would best be accomplished by interbody fusion at the L4-L5 and L5-S1 level with nerve root decompression and lateral mass fusion. I do not believe that simply decompressing the nerve root again and removing further disc material would be enough to relieve this man's problem. The fusion is necessary to stabilize the lower two joints and to prevent a recurrence of nerve root compression at these two level.

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).

Nan Cunningham
President/CEO