

November 20, 2002

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

MDR Tracking #: M2-03-0180-01
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 MD with a specialty and board certification 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 44-year-old gentleman who sustained a low back injury on ___. The patient was diagnosed with lumbar facet joint hypertrophy and arthropathy. He underwent conservative treatment, which failed. He underwent several lumbar nerve blocks which gave the patient only limited short-term relief. ___ also underwent a number of studies including discography and a MRI scan which demonstrated L5-S1 degenerative disc disease with concomitant radiculopathy.

___ failed all conservative treatment and underwent a lumbar decompression, laminectomy, foraminotomy and posterior lumbar interbody fusion with autologous and allograft bone at L5-S1.

Because of persistent low back pain he underwent a revision interbody fusion at L5-S1 for neuroforaminal collapse and pseudoarthrosis at L5-S1. The day of surgery was April 1, 1999.

___ continued to complain of pain, particularly in his bilateral lower legs with global paresthesia.

A CT myelogram performed on January 25, 2000, demonstrated posterolumbar interbody fusion at L5-S1 otherwise negative. A CT scan done on December 20, 2001, demonstrated status post interbody fusion at L5-S1, continued degenerative arthritis at the left sacral joint. There is no canal compromise. The facet joints were open at L5-S1.

EMG's and Nerve Conduction Studies performed on February 20, 2002 were consistent with irritability in the bilateral L3-S1 motor nerve roots.

On February 8, 2002, the patient was seen by his treating physician for chronic low back pain with right unilateral radicular-type syndrome. A CT scan demonstrated interbody fusion. There was osteoarthritis at the facet joint at L4-L5 and L5-S1. The diagnosis was neuroforaminal stenosis. The patient was recommended facet joint blocks, light duty and psychotherapy for pre-existing depression.

___ was seen by ___ on August 19, 2002. He was there for a required medical examination. At the time, the patient was complaining of low back pain with leg pain with tingling, burning, and numbness in his lower extremities. He describes bilateral global weakness. He is having difficulty starting urination. His current medicine was hydrocodone and Neurontin. Examination revealed he had loss of his lumbar motion with tenderness to palpation He had absent bilateral ankle reflexes but knee reflexes were intact. There were no sensory deficits or motor deficits noted. ___ had 5 Waddell's over 5. X-rays revealed a solid union at L5-S1 with no gross motion at that level. It was stated that his patient would continue to need pain management follow-up for his chronic pain syndrome. It was stated this patient would never likely return to any gainful activities that he could perform prior to his injuries and surgeries.

It is noted that ___ has recommended further lumbar decompressive foraminotomies and possible fusion back in April of 2002. To date, these have been denied for various reasons.

REQUESTED SERVICE

Lumbar laminectomy and facetectomy/foraminotomy have been requested for ___.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

___ is a 44-year-old gentleman who originally injured his lower back on ____. Original diagnoses include a L5-S1 degenerative disc disease with facet joint hypertrophy and arthropathy. He failed conservative treatment and underwent a L5-S1 decompression and fusion. He subsequently went on to a pseudoarthrosis and had a revision fusion. Since then, the patient has had chronic low back pain with intermittent leg pain and radiculitis. First diagnosis is “failed back syndrome” with chronic pain and lumbar facet joint arthropathy at L3-L5. In addition, the patient has a history of depression and suicidal ideations and is undergoing psychotherapy.

Based on the information provided, the reviewer finds that the recommended lumbar laminectomy and foraminotomies would not be medically necessary at this time based on general accepted standards of orthopedic practices. The reviewer’s rationale is based on the fact that the patient has had two surgeries for similar conditions which have not relieved his pain. In fact, he now could be classified as “failed back syndrome.” The arthritic changes at L3-L4 could not have been definitive pain generators in this patient. Further surgery at this time could significantly compromise this patient.

Looming in the background is ___ significant psychological overlay to include depression, suicidal etiology, and strong positive Waddell’s signs. This, along with his smoking, are all poor predictors for successful lumbar 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 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).

I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 20th day of November 2002.