

July 7, 2003

Re: Medical Dispute Resolution
MDR #: M2-03-0190-01
IRO Certificate No.: 5055

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 who is Board Certified in Pain Management.

Brief Clinical History:

This male claimant experienced an abrupt onset of lumbar pain following a work-related accident on ____. His pain has been primarily lumbar, with intermittent radiation of pain into the lower extremity. Neither epidural steroid injections, nor facet joint injections have provided significant relief.

Lumbar MRI on 08/17/01 demonstrated multi-level 3-5 mm central posterior herniations at L3-4, L4-5, and L5-S1, with extrusion of a nucleus pulposus through the outer layers of the annulus at L4-5, a tear in the posterior annulus at L5-S1, and containment of the disc herniation at L3-4 by the outer layers of the annulus. There was no evidence on MRI of any nerve root compression.

Discography on 02/18/02, revealed a Grade 3 fissure at L3-4 producing moderately concordant pain, and Grade 5 annular tears at L4-5 and L5-S1 producing severe concordant lumbar pain. Contrast was seen to escape through the annular tear at both L4-5 and L5-S1.

On 2/26/02, documentation stated that the claimant would be a candidate for interbody fusion at L4-5 and L5-S1. However, on 04/16/02, his physician reconsidered in favor of nucleoplasty. A noted on 04/16/02 stated that there was only a 40-50% chance of nucleoplasty being beneficial, and that it "is controversial."

Disputed Services:

Nucleoplasty at L4-5 and L5-S1.

Decision:

The claimant's clinical condition does not meet nationally accepted standards and recommendations for candidacy for nucleoplasty. Nucleoplasty is indicated for the treatment of contained disc herniations, which is not the clinical condition documented in this case. These standards are based on studies that indicate poor outcome when nucleoplasty is performed, even appropriately, on multiple levels. There are no studies demonstrating long-term efficacy or success with this procedure.

The claimant is not a candidate for this procedure due to the three-level pain concordancy and two levels of Grade 5 tears with extrusion of disc material through the outer annular layers of the disc. Both the MRI and discogram/CT studies clearly indicate that the disc herniations are not contained within the annulus, but rather extrude through the outer annular layers.

As reflected in the records, this procedure is controversial and the claimant's chance for improvement is only 40-50%, at best, with a two-level nucleoplasty. Therefore, even if he did meet appropriate candidacy protocol, there still would not be sufficient chance of clinical benefit to justify a two-level nucleoplasty.

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 care for determination prior to referral to the Independent Review Organization.

We are simultaneously forwarding copies of this report to 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 May 14, 2003.

Sincerely,