

NOTICE OF INDEPENDENT REVIEW DECISION

Date: December 27, 2002

MDR Tracking #: M2-03-0331-01
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by an Orthopedic Surgeon physician reviewer who is board certified in Orthopedic Surgery. The Orthopedic Surgeon physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

Clinical History

The claimant was apparently injured on ___ when she tripped and fell, injuring her right ankle and wrist. She apparently was diagnosed as having an ankle fracture and was treated with a brace for her ankle and a splint for her wrist. She saw the doctor on 8/22/00 complaining of right hip and groin pain. She apparently had a lumbar MRI scan and a hip arthrogram. The MRI scan was said to have shown degenerative disc changes at L4/5 and L5/S1 and the hip arthrogram was reported to show synovitis. He felt that surgery would not be indicated, as the patient demonstrated some chronic pain behaviors that needed to be addressed. He felt she did not have a surgical problem.

Report of an MRI scan done on 10/19/00 shows disc desiccation at L4/5 and L5/S1, with disc bulges and mild spondylolysis.

On 10/19/00, the patient saw a doctor for pain management services. He diagnosed right hip degenerative arthritis, depression and anxiety. She subsequently had lumbar sympathetic block and extensive treatment including lumbar epidural steroid injections without relief. On 11/27/01 she had CT/discography, the report of which indicates that she had degenerative changes at L4/5 and L5/S1. Overall this was determined to be a right foraminal disc herniation at L4/5 with facet joint changes and stenosis and a central disc herniation at L5/S1 with stenosis.

On 2/7/02 the patient saw a doctor with complaints of back pain. He noted a weakness of the EHL and recommended surgery. On 6/17/02 the patient saw a doctor with complaints of low back pain and right and left leg pain since her injury. Her neurological examination was normal. He recommended consideration of an L4/5 discectomy. On 4/29/02 and on 5/6/02 there is a non-authorization for surgery from the doctor.

On 11/6/02 the doctor reviewed the patient's history and determined she had a normal neurological examination and was not a good candidate for surgery in view of the fact that she had minimal radiographic findings and no radicular symptoms and that she was able to wait. On 8/12/02 the doctor saw the patient for a designated doctor examination. He noted she was a forty year old, had low back and left leg pain, and was significantly obese. He noted a decreased range of motion in the back and a normal neurological examination. He felt that all of her radiographic tests were normal and the discograms were normal. He felt she was at maximum medical improvement and surgery was not indicated.

On 5/6/02 there is another non-authorization for surgery. On 9/24/02 there is a recommendation for an independent medical exam and on 9/25/02 a recommendation for a second opinion.

Requested Service(s)

Anterior lumbar interbody fusion with posterior decompression at L4-5.

Decision

I do not feel surgery is medically necessary in this patient

Rationale/Basis for Decision

In my opinion surgery is not indicated in this individual. The radiographic findings demonstrated are present in 50% of the population over age 40. The occurrence of disc bulges, mild foraminal narrowing, and facet hypertrophy are of minimal significance in an individual at 40 years of age. The findings represent the normal process of aging and are more probable in obese individuals due to the increased mechanical stress on the lumbar spine. Documentation to support this opinion is present in the Textbook of Spinal Disorders, 1995 by Esses. Furthermore, several of the examining physicians have noted evidence of pain behaviors, which would mitigate against the possibility of successful results from surgery. Therefore, in my opinion anterior lumbar interbody fusion at L4/5 with a posterior decompression would not be indicated. It would be my opinion that the patient would probably continue to experience significant pain and might have worsening of her symptoms as a result of this. In my opinion the findings noted on her imaging tests are those of the normal aging process and in view of the fact that she has no demonstrable radicular findings or any distinct evidence of nerve root impingement on physical examination would suggest that surgical decompression and fusion would not result in any significant improvement.

This decision by the IRO is deemed to be a TWCC decision and order.

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.

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 **10** (ten) days of your receipt of this decision (20 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (pre-authorization) decisions 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 hearing should be sent to: Chief Clerk of Proceedings, Texas Workers' Compensation Commission, P.O. Box 40669, Austin, Texas, 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 (Commission Rule 133.308 (t)(2)).

Sincerely,