

January 20, 2003

Re: Medical Dispute Resolution  
MDR #: M2-03-0374-01  
IRO Certificate No.: IRO 5055

Dear:

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 below, 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 Orthopedic Surgery.

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 case 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.

Clinical History:

This male claimant suffered an on-the-job injury on \_\_\_, resulting in low back and right leg pain. He has failed to respond to conservative treatment. A CT myelogram was positive for abnormalities. An MRI showed a lumbar herniated nucleus pulposus, right-sided posterolateral disc herniation, and degenerative disc disease.

Having failed conservative treatment, he was scheduled for an L5-S1 discectomy, laminectomy with interbody fusion, segmental fusion using pedicle screws, and posterolateral fusion using iliac crest bone graft.

According to an intake form, the patient is a smoker, smoking, and “1 pack per day, sometimes less.”

Disputed Services:

Spinal growth stimulator

Decision:

The reviewer disagrees with the determination of the insurance carrier. The reviewer is of the opinion that the requested treatment is medically necessary in this case.

Rationale for Decision:

Smoking has a significant deleterious effect on the potential for healing and bone fusion, such as spinal fusion. Such deleterious effect increases the chance of non-union and possible need for additional surgery. Use of a bone stimulator is particularly beneficial when the patient is a smoker, in decreasing the non-union rate and increasing the fusion rate. Stopping smoking on the part of the patient is similarly helpful, but there is a consistent lack of compliance, in general, with smokers relative to their surgical condition.

The bone stimulator in a smoker is reasonable, necessary and useful for orthopedic surgeons performing bone fusion such as proposed in this case. The patient is, indeed, a smoker, indicating the use of an electrical bone growth stimulator.

## **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 January 20, 2003.**

Sincerely,