

January 17, 2003

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

MDR Tracking #: M2-03-0399-01-SS
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 Medical Doctor 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 46-year-old male who is being considered for his fifth lumbar spine surgery. This unfortunate patient underwent his first laminectomy and removal of the lumbar disc in 1986. The level is not known. Then, in 1989 he had a second operation which involved fusion of the lower lumbar spine. This was probably an L5/S1 fusion following repeat exploration and laminectomy at L4/L5. His third back surgery was performed in 1990, one year later, because of a pseudoarthrosis and continuing pain in his back. The patient had further bone grafting and the pseudoarthrosis was repaired. The patient then had his fourth back surgery in January 2000. This surgery was a fusion of L4 and L5 adding this vertebra to the already fused L5/S1 level. ___ is now having severe lower back pain with left leg radiation. He apparently has evidence of fusion with instrumentation and interbody cages in the L4/L5 joint, which appeared to be solid. Now his treating physician is requesting approval for the addition of the L3/L4 joint to his already fused segment in the lumbar area. His operating surgeon proposes an L3/L4 decompression

with revision of the previous instrumentation and posterior lumbar interbody fusion at the L3/L4 level. In other words, this adds the third lumbar joint to the fusion.

REQUESTED SERVICE

___ operating surgeon proposes an L3/L4 decompression with revision of the previous instrumentation and posterior lumbar interbody fusion at the L3/L4 level.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

In review of the medical records presented, the reviewer notes that there have been no flexion or extension films taken to determine the exact status of his present fusion. There is no proof that the L3/4 joint is the source of the present pain. This patient has a multiple level degenerative disc disease in his lower thoracic and his entire lumbar spine. Usually, adding additional levels to the fused segment does not do much other than continue the degenerative process further cephalad. This usually causes further joints to degenerate above the fusion segment.

The discogram that was done on August 14, 2002, demonstrates a normal disc radiographically at the L3/L4 level. Though the patient reported concordant pain at this level, the reviewer would be hesitant to accept this single diagnostic criteria as reason to fuse the L3/L4 joint in the face of a radiographically normal discogram. The medical records do not support the need for this proposed surgical procedure.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy.

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).