

January 10, 2003

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TWCC Medical Dispute Resolution
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MDR Tracking #: M2-03-0411-01
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 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 44-year-old employee of ___. She sustained a straining injury to her back while she was lifting a cotton candy machine at work on ___. She initially had low back pain, but after about two months, the pain began to radiate into the back of both hips and all the way down both legs. She also had numbness and tingling. She was treated conservatively with muscle relaxants, pain medication, anti-inflammatory medication and physical therapy. Her x-rays demonstrated a grade I spondylolisthesis. The pain continued and she began seeing ___, her treating doctor. ___ underwent some ankle surgery for tarsal tunnel syndrome, which has nothing to do with this injury, but she was on crutches for a period of time and this seemed to make her back and leg pain worse. After she recovered from the ankle surgery, the back and leg pain was very severe and she was felt to be a candidate for lumbar epidural steroid injections. She was referred for lumbar epidural steroid injections and she had one injection, which only gave a very short-term relief. She had the second injection, but the x-ray machine broke down at the time that the injection was being given and it was not concluded. After failure of the epidural steroid injection

routine, she was then referred to ____, a neurosurgeon, on January 14, 2002. He evaluated her and found that she was neurologically intact, but she was having pain radiating down both legs and she complained of numbness and tingling in both legs. He felt that she had about 4+ strength in her extensor hallucis longus on one side but otherwise the muscle groups were all normal with regard to muscle strength. Ms. ____ was felt to be a candidate for myelogram and CT scan. He reviewed her MRI before ordering myelogram and CT scan. The MRI was done on August 20, 2001, and it demonstrated mild spinal stenosis at L5/S1 with disc degeneration and some bulging at L5/S1. There was no nerve root compression felt to be present on the MRI. The myelogram CT scan was done on February 13, 2002. It did not demonstrate any real significant spinal stenosis, but demonstrated several areas of disc degeneration, particularly localized at the L5/S1 level. ____ felt that the patient was a candidate for spinal fusion, since she had failed conservative treatment. He suggested a decompression laminectomy and facet removal along with foraminotomy and spinal fusion using pedicle screws to stabilize the fusion site. According to the medical record that was supplied, it appears that the surgery was not approved and was not done, though the reviewer is unsure as to the reason why this was so.

The record indicates that after this period of time, ____ continued to see ____, her treating physician. Her pain has become progressively more severe and the record indicates that she is having more numbness and tingling in her legs along with the pain, yet she has not had any definite increase in neurologic deficit in her lower extremities since her symptoms began. Because of the worsening in her symptoms, ____ has requested a repeat MRI on her lumbar spine with an open MRI unit because of her obesity. This procedure has been denied on the basis that the procedure is repetitious and she had a previous MRI less than one and a half years ago.

REQUESTED SERVICE

____ has requested a repeat MRI of the lumbar spine for ____.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

It is true that ____ had an MRI nearly seventeen months ago. However, her clinical symptoms have worsened, and the reviewer finds that it is appropriate to repeat this imaging study at this point in time, even though she had the previous MRI nearly seventeen months ago. A repeat MRI is indicated in this case on the basis of clinical worsening of her pain, as reported by her treating physician. The fact is that it has been nearly seventeen months, and one more month would not make a great deal of difference with regard to waiting to repeat the MRI. It should be repeated now, since her symptoms have worsened and she is still not able to return to work or return to her usual activities.

___ 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).