

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-03-2757.M2

March 5, 2003

Re: Medical Dispute Resolution
MDR #: M2.03.0427.01
IRO Certificate No.: 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 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 Physical Medicine and Rehabilitation.

Clinical History:

This 37-year-old male suffered head and upper back trauma from an injury on his job on ____. He had previously had an L5-S1 fusion, and a CT scan that showed an L4-5 disc herniation, as well as associated facet arthritis and ligament hypertrophy with some stenosis. The post-surgical changes were noted at L5-S1, with fragmentation of the fusion mass.

Disputed Services:

Lumbar discogram.

Decision:

The reviewer agrees with the determination of the insurance carrier. The reviewer is of the opinion that a lumbar discogram is not medically necessary in this case.

Rationale for Decision:

In reviewing the records, there is no indication that the patient has had a thorough mechanical evaluation looking at directional movements and his mechanical response. Donnelson, Aprill, et al.,

in *Spine*, May 1997, identified the mechanical examination principles of McKenzie as being capable of providing information almost equivalent to discography. The correlation was at the 92% level. In addition, it is well known in the literature that MRI and other imaging studies are not necessarily diagnostic in all situations.

The patient has shown significant improvement with wearing a brace, with his pain level going from 8/10 level down to 0-4/10 level. Hence, it would seem appropriate to place the patient in the brace for 6-12 months and not do further surgical intervention, allowing for natural healing to occur. When appropriate, exercises that alleviate or decrease his pain could be added. This could eventually restore what range of motion that is available and completely avoiding surgery.

There is no evidence in the literature that the current recommended treatment for this patient would do anything less than perhaps providing additional harm. The current documentation does not support additional invasive diagnostic procedures, at least until other mechanisms of diagnostic evaluation have been exhausted. Documentation does not support additional surgery, which would be the only reason for doing the discogram.

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 March 4, 2003.

Sincerely,