

February 19, 2003

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TWCC Medical Dispute Resolution
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MDR Tracking #: M2-03-0552-01-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 38-year-old woman who sustained a fall while at work on ___, while employed at ___. She is a financial assistant for accounts payable at the church.

In the patient's description of the injury, she was walking down some stairs holding two cups of ice when her feet came out from under her. She proceeded down the stairs on her tailbone. As she tried to stop herself, she used her left arm to grab the railing and yanked her arm away from her body. Her right elbow struck the concrete. She complained of neck and lower back pain.

She came under the care of ___ on July 24, 2001. It is noted that her past surgical history is significant for left-sided rotator cuff repair in 1990 and a C5/6 discectomy in 1993. The patient is complaining of pain in the left side of her arm, and this pain increases with repetitive activities. She states that she had 80% neck pain and 20% arm pain, as well as low back pain and leg pain. Her initial examination revealed that she had mild left-sided neck discomfort with some extreme hyperextension and right-sided rotation. She had +4/5 motor strength in the left biceps, triceps, and brachioradialis with hypo-reflexes symmetrically. The x-rays of her cervical spine demonstrated a solidly healed C5/6 fusion without instrumentation with reverse of lordosis at C2 – C5 with maintenance of her disc space heights at all levels. She had minimal spondylosis at C4/5 and C6/7. Diagnosis given was a left-sided cervical radiculopathy. The patient was recommended a MRI of the cervical spine.

On August 1, 2001, the patient's MRI of the cervical spine was performed. It demonstrated a 1 mm posterior disc bulge without cord impingement canal or foraminal stenosis at C4/5.

The post-surgical changes at C5/6 demonstrate no stenosis. Other levels were unremarkable.

The patient did undergo an EMG/NCV by ___ on August 15, 2001. This upper and lower extremity EMG/NCV was negative. The patient was recommended physical therapy and anti-inflammatory medicines. ___ documented signs consistent with a left-sided C5 and C7 cervical radiculitis and recommended selective nerve root blocks.

On December 17, 2001, the patient underwent a left-sided C5 and C7 selective block by ___. His findings noted that a C5 nerve root had positive concordant provocation of the shoulder and the C7 nerve root had positive concordant provocation down the posterior aspect of the arm. The patient had good relief with local anesthesia. In follow-up by ___, it is noted that the patient had partial relief of symptoms and observation was recommended.

In early 2002, the patient had recurrent symptoms consistent with a left-sided C5 and C7 cervical radiculitis. ___ recommended the patient undergo an anterior cervical discectomy and fusion of the C4/5 and C6- C7.

In March of 2002, ___ recommended a CT myelogram of the cervical spine to better assess the bone anatomy.

In April of 2002, ___ states, "given her symptoms and lack of evidence, imaging studies and electrodiagnostic pinpoint an organic cause to her pain, I recommend that she try a work-hardening program and return to work at the maximum capacity that she can tolerate as determined by a functional capacity exam. In June of 2002 it is noted that the patient's work hardening was denied.

On August 9, 2002, the patient underwent a repeat cervical MRI. This demonstrated a C4/5 posterior central annular tear with no central canal or foraminal stenosis. There was a solid interbody fusion at C5/6. The rest of the examination was essentially unremarkable. On that same date she also underwent a C4/5 and C6/7 discography under fluoroscopy by ___. Findings at C4/5 indicated that the patient had neck pain on the right more than the left, but it "did not reproduce left-sided shoulder pain." He stated there did appear to be some annular tearing at the level. At C6/7 there was no concordant pain.

On August 14, 2002, once again ___ recommended a C4/5 cervical discectomy and fusion based on the recent discogram findings at C4/5 concordant pain.

On August 20, 2002, the patient underwent a designated doctor examination by ___. He noted that the recommendation of a discectomy and fusion at C4/5 should be proceeded cautiously, since there had been no demonstration of neural involvement by prior MRIs. The patient was not deemed to be at MMI.

On September 11, 2002, ___ wrote an appeal letter supporting his recommendation of anterior cervical discectomy and fusion at C4/5 with instrumentation and allograft. This has been reviewed.

On September 30, 2002, ___ noted that his recommendation had been denied by the Worker's Compensation Commission peer review physician based on no evidence of concordant pain on high-pressure discography. ___ refutes this information and requested a further appeal.

On December 20, 2002, an excellent "physician paper" was written by ___. This paper has been reviewed.

REQUESTED SERVICE

Anterior cervical discectomy and fusion is requested for ___.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

___, a 38-year old woman, sustained a slip and fall injury on ___. It appears that the patient has persistent neck pain and intermittent left arm pain consistent with possible C5 and C7 radiculitis. However the patient's objective data: EMG/NCS, MRIs, x-rays and physical examination are lacking any supportive evidence for a C4/5 or C6/7 neuropathy, nerve root entrapment, radiculopathy or herniated disc. In other words, there are no truly objective findings to "pinpoint" the "organic cause of her pain." This concern is echoed in the treating physician, ___ office note of April 2, 2002.

However, this patient's subjective data, complaints, discography, and selective blocks do point to the possibility of a C4/5 pain generator. As eloquently noted in ___ physician paper dated December 20, 2002, "concordant pain" at a discography is fraught with interpretive problems and should not be the sole basis for decision for major surgery as recommended by ___. Also as stated by ___, the post-discography CT scan demonstrated a posterior central annular tear that does not necessarily correlate with a painful tear. References have been documented in ___ paper. It is also interesting to note that there have been no apparent attempts at a second opinion by a board-certified orthopedic spine surgeon or board-certified neurosurgeon to lend "fresh eyes" on this difficult case. In addition, there has been no attempt at cervical epidural steroid injections or facet joint injections of the cervical spine to help determine pain generators.

On the human side, there is a patient attached to this record. It is clear by this medical record that ___ has significant subjective complaints of neck pain and intermittent left shoulder and arm pain. In her own words, she notes the significance of this pain in her life. It is causing both emotional, physical, psychological and financial damage. The reviewer empathizes and sympathizes with her position.

However, based upon the preponderance of evidence as documented above and in the medical records provided for this review, the reviewer finds the requested surgery to be inappropriate for this patient.

___ 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).

I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 19th day of February 2003.