

NOTICE OF INDEPENDENT REVIEW DECISION

Date: February 11, 2003

RE: MDR Tracking #: M2-03-0595-01
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by an Orthopedic Surgeon physician reviewer who is board certified in Orthopedic Surgery. The Orthopedic Surgeon physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

Clinical History

This is a 44 year old male with lifting injury ___. Prior history of a low back injury ___ with 6-7 mos. work loss. Complaints of lumbar pain with paresthesias left lower extremity following ___ injury. Did not respond to conservative treatment. MRI indicated large HNP L3-4 on left and central disc herniation at L5. Underwent multilevel fusion on 1/15/01. No operative note to review, but appeared to be L2-L4 fusion with instrumentation and implant of EBI bone growth stimulator. Surgery was not successful and he was placed at MMI with 10% permanent impairment on 12/26/01. Subsequently had re-operation on 8/13/02 with removal battery pack and extension of fusion to L5 and possibly S1 with reinsertion stimulator (no operative note). Neuromuscular Stimulator was requested 9/24/02 for ongoing pain.

Requested Service(s)

Reimbursement requested for neuromuscular stimulator

Decision

I agree with insurance carrier that the neuromuscular stimulator is not medically necessary.

Rationale/Basis for Decision

There are no large well controlled peer reviewed studies in the literature that indicate this device is a consistent reliable device that affords pain relief. The Federal Guidelines published December 1994 indicate no reliable indications for TENS units and there has been no reliable evidence since to change that recommendation. **Additionally, the literature is absent of any large, randomized, controlled, double-blinded studies documenting the long-term effectiveness of other stimulators, such as the neuromuscular stimulator in question.**

This decision by the IRO is deemed to be a TWCC decision and order.

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.

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 **10** (ten) days of your receipt of this decision (20 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (pre-authorization) decisions 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 hearing should be sent to: Chief Clerk of Proceedings, Texas Workers' Compensation Commission, P.O. Box 40669, Austin, Texas, 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 (Commission Rule 133.308 (t)(2)).

Sincerely,

<p>In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requester and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 11th day of February 2003.</p>
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