

April 21, 2003

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TWCC Medical Dispute Resolution
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Austin, TX 78704

MDR Tracking #: M2-03-0731-01
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 Neurology. 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

___ was injured on the job on ___ while picking up a heavy sixty-pound object. He started having severe pain in his back, radiating into his left leg from the thigh and into his foot, at the time he also had pain in his neck and shoulders. At that time in 1995 he was evaluated by a number of physicians and subsequently, after conservative treatment, underwent a lumbar myelogram that showed a prominent disc material or some ligamentous material involving the left S1 nerve root. His clinical examination at that time had showed tenderness in the lumbar spine with normal straight leg raising, but no definite reflex changes or weakness. He underwent a number of incomplete EMG studies. They were mostly EMGs of nerve conduction of the lower extremities and the somatosensory dermatomal testing, which was normal. No needle examination of the muscles were done at that time. Also, his spinal fluid studies at the time of the myelogram showed a high spinal fluid protein of 80, where normal is 12 to 55. The patient underwent a lumbar laminectomy at L5/S1 as well as some posterior instrumentation at L4/5 with lumbar fusion and hemilaminectomies done on May 1, 1997. Post-operatively, he made some improvement with less pain and numbness but still continued to have some of his symptoms. A follow-up examination by ___ dated December 10, 1997 stated that the patient was still having back pain and he was having abnormalities in straight leg raising and sensory problems in the leg, though there was no weakness. No comments at that time were made regarding the reflexes. A consultation by ___ on March 5, 1998 stated that the claimant still continued to have pain in his back and numbness in his leg. The examination at that time showed him to have flattening of the

lumbar spine. There was positive straight leg raising of 30 degrees on the left and there were subjective symptoms of tingling and numbness in the foot. The reflexes and strength, however, were normal. ___ was continually followed by ___ over the subsequent years 2000 and 2001. Numerous trigger point injections were done, as well as pain management. Also, this was done for his neck and arm, as well as his low back and left leg pain. Despite these treatments, this patient still continued to have pain in his back radiating into his leg. On August 28, 2002 there was a CT of the lumbar spine that showed post-surgical changes at L4/5 and L5/S1. There was much epidural scar formation at L5, S1 and L4/5. There is no evidence of disc herniation.

On August 21, 2002 the examination by ___, an orthopedic surgeon, showed abnormal range of motion of the lumbar spine and reduced pain in the leg when motion was attempted. Straight leg raising was positive on the left at 45 degrees, reflexes were normal, and subjective sensory loss in the foot was noted. On March 5, 2003 after undergoing a number of facet injections without improvement, ___ stated that the patient was still having more pain in his back and left leg with numbness and tingling in the left foot and burning in the left foot. His straight leg raising was abnormal, but he still had good strength in his leg.

REQUESTED SERVICE

EMG/NCV studies of the lower extremities are requested for this injured worker.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer finds that an EMG is reasonable and necessary as related to the patient's current symptoms of lumbar pain. At no time had he undergone a standard EMG study with needle examination. He had been treated with surgery, and since then, a number of pain relief treatments, but still continues to have severe pain in his back that radiates into his leg. The EMG would be helpful and necessary to determine if there is any evidence of any radicular abnormalities in the leg or in the foot, since in the past there has never been any documentation that there was nerve damage, though the studies that have been done were not adequate to determine if at any time there was any nerve damage. This patient has a lot of scar tissue post-surgery as evident by a MRI of the lumbar spine back in 1998 and more recently in 2002. An EMG would be helpful to determine if there is any nerve damage to the root, which could cause significant pain and numbness without any changes of motor weakness or reflex changes, particularly if it is in the L5 territory. Also, the remote possibility is that this patient could have a peripheral neuropathy that is causing the numbness and tingling in the foot. It may not even be from his back. Hence, the reviewer finds the value of the EMG would be helpful in localizing to see whether there was a nerve root irritation, and if there was, this could explain continued pain. Nerve pain is treated differently than bone pain or facet pain. Injections to the facets are not going to help nerve pain.

The ___ reviewer finds that an EMG and nerve conduction study are necessary and reasonable based on the fact that this patient continues to have symptoms, and this would be helpful in localizing a process. In addition, as has already been stated, this patient has never had a proper EMG in the past because the nerve conduction studies and the somatosensory potentials are not very helpful in the diagnosis of radiculopathy or neuropathy.

___ 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 21st day of April 2003.