

April 29, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M2-03-0787-01
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 47-year-old man who sustained an injury to his back on ___ when he was pulling on a steel rod at work. He felt a sudden pain in the low back with radiation into the left buttocks. He also experienced numbness in his right foot associated with this pain. He had physical therapy and chiropractic care along with medication for pain and muscle spasm; he did not improve. An MRI was done and it demonstrated foraminal disc protrusion and foraminal stenosis at L5/S1 on the right. Also, a grade 1 listhesis was seen at L5/S1 but there was no real radiographic evidence of a pars interarticularis defect. The imaging studies were suggestive of a marked degenerative disc disease the L5/S1 level.

A series of lumbar epidural steroid injections were given to the patient, but these did not give him any significant lasting relief. Provocative discograms were done and there was noted to be a leakage of material at L5/S1, but there was only mild concordant pain reported at L4/5 and moderate concordant pain reported at L5/S1. The patient attempted to go through a work hardening program but this made his pain worse.

REQUESTED SERVICE

An IDET procedure is requested for this patient.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The reason that an IDET procedure is not indicated for this patient is because this man's pain is not pure axial pain, rather, he is having a great amount of radicular pain. According to the record, he has EMG evidence of right L5 radiculopathy. Also, his MRI suggests stenosis of the neural foramina at the L5/S1 level on the MRI with an anterior listhesis of L5 on S1. All of these factors, plus the fact that he had only moderate concordant pain with the discogram at the L4/5 and the L5/S1 levels make the IDET procedure very unlikely to be successful. Also, this is a two-level IDET procedure, and not just a single level that is being considered. The ___ reviewer does not feel that a two-level IDET procedure is indicated in this case.

___ 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 29th day of April 2003.