

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 4, 2003

RE: MDR Tracking #: M2-03-0856-01
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 reviewer who is board certified in Orthopedic Surgery. The Orthopedic Surgeon 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

Claimant underwent an L5-S1 fusion on Dec. 10, 2001, for an alleged injury to the back that occurred on _____. Claimant now has a history of "post-fusion syndrome," chronic back pain, and "sympathetic hyperactivity in the lower extremities." An electromyogram report dated 6/17/02 documents a normal study. A discography performed prior to spinal surgery confirmed non-concordant pain at L4-5. Clinical report dated December 20, 2002, indicates disc space narrowing at L4-5.

Requested Service(s)

Repeat lumbar discogram with post-CT at L3-4 and L4-5.

Decision

I agree with the insurance carrier that the requested intervention is not medically necessary.

Rationale/Basis for Decision

In general, discography is a controversial test that can demonstrate an anatomic abnormality in asymptomatic people and subjective responses can be widely skewed, particularly with psychological issues. A positive discogram does not ensure a satisfactory surgical outcome even with the presence of a solid fusion. A discogram may be a confirmatory study in the presence of

significant disc pathology and an established diagnosis when surgical fusion is anticipated. There is no documentation in this clinical setting of significant disc pathology or an established diagnosis. There is documentation only of some narrowing of the disc space at L4-5, however, there is no discussion of anticipated fusion at this level and there is no discussion of any progressive instability or significant pathology at this motion-segment level. Furthermore, there are several other issues that have been addressed, including a sympathetic hyperactivity in the lower extremities and chronic pain post-fusion. Certainly, a reflex sympathetic dystrophy-like picture should be clarified prior to any further consideration of surgical intervention.

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 (preauthorization) 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)).

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