

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-03-4129.M2**

NOTICE OF INDEPENDENT REVIEW DECISION

June 25, 2003

RE: MDR Tracking #: M2-03-1158-01
IRO Certificate #: IRO 4326

The ___ 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 a ___ physician reviewer who is board certified in anesthesiology and pain management which is the same specialty as the treating physician. The ___ 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 patient sustained a back injury on ___ while stacking pallets. He slipped on some water and fell. He saw a chiropractor for treatment and attended physical therapy. A lumbar MRI dated 05/31/01 reveals a disc protrusion at L4-L5 without foraminal stenosis. He saw a neurosurgeon and had lumbar facet joint injections which helped for a while and then lumbar facet joint nerves rhizotomies from T12 to S1.

Requested Service(s)

Discogram for levels L3-L4, L4-L5, and L5-S1

Decision

It is determined that the proposed discogram for levels L3-L4, L4-L5, and L5-S1 is medically necessary to treat this patient's condition.

Rationale/Basis for Decision

This patient has had multiple diagnoses given including facet joint pain, sacroiliitis, and discogenic pain. The MRI shows protruded disc at L4-5 yet there is a question as to whether this is the source of the patient's pain. He continues to have pain more than two years after the initial injury despite trying multiple medications, including opiates, physical therapy (42 visits), neuromuscular stimulation, and injections.

This patient meets the criteria for discogram according to the Guidelines from the North American Spine Society (phase III - Unremitting Low Back Pain):

“Discography is indicated in the evaluation of patients with unremitting spinal pain, with or without extremity pain, of greater than four months duration, when the pain has been unresponsive to all appropriate methods of conservative therapy. Before discography, patients should have undergone investigation with other modalities which have failed to explain the source of pain; such modalities should include, but not be limited to, either CT scanning and/or myelography. In these circumstances, discography, especially when followed by CT scanning, may be the only study capable of providing a diagnosis by permitting a precise description of the internal anatomy of a disc and a detailed determination of the integrity of the disc's substructures.” (*Unremitting low back pain. In: North American Spine Society phase III clinical guidelines for multidisciplinary spine care specialists.* North American Spine Society. Unremitting low back pain. North American Spine Society (NASS); 2000. 96p).

One of the most important uses of discography according to the International Spinal Injection Society (ISIS) is for discovering the pain source in patients with persistent prolonged back pain, as is the case with this patient. Another indication met in this case is “when selecting patients for nucleotomy or laser” e.g. to establish a contained disc. Most authors/texts recommend 3-level discography unless the pathology is at L5-S1. In this case the pathology is at L4-5. Therefore, it is determined that the proposed discogram for levels L3-L4, L4-L5, and L5-S1 is medically necessary.

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** (10) 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)).

Sincerely,

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 requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 25 th day of June 2003.
