THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-03-4352.M2

July 1, 2003

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

MDR Tracking #: M2-03-1231-01
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

This patient is a 42-year-old woman who fell on some stairs at work and sat down very hard on her buttocks while carrying a 60-pound-bucket of wax. She noted severe pain in the low back with extension down the back of the right leg to the right calf. She originally began treatment with her chiropractor, ___, but did not respond to chiropractic treatment. An MRI was done that was normal except for a mild bulge in the L4/5 disc. A myelogram was also done along with a CT scan that did not demonstrate any pressure on the neural structures and was basically normal. Dr. ___, a neurologist, saw her. He found an entirely normal neurological examination and noted that she demonstrated significant evidence of symptom magnification. He could not suggest any definitive treatment and he suggested aggressively encouraging her to go back to work.

The patient was then sent to ___ for a series of four epidural steroid injections. These gave her only temporary relief of symptoms. He next injected her right sacroiliac joint. She returned to work but had to stoop in October 2000 because of worsening symptoms. She was last referred to ___, a spine surgeon, who saw her on April 11, 2002. He felt that she should have provocative discograms at the lowest two interspaces in order to try to find evidence of a surgical condition in

her back, since everything else had been normal. The possibility of an IDET procedure was also mentioned. The carrier has not approved this provocative discogram and the treating doctor is disputing their decision.

REQUESTED SERVICE

A provocative lumbar discogram with flouroscopy is requested for this patient.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer does not find that the provocative discogram is indicated. This patient has evidence of symptom magnification. She has a predominance of leg pain with complete absence of any objective evidence of neural compression. She has a normal MRI, normal myelogram and CT scan and a normal EMG and nerve conduction studies. She has no indication for an IDET procedure or s spinal fusion. Therefore, there is no indication for doing this subjective invasive procedure.

___ 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 1st day of July 2003.