

July 14, 2003

MDR Tracking #: M2-03-1380-01
IRO #: 5251

___ 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 approximately 43-year-old injured her lower back on ___. Medical records indicate that she was employed at ___ was trying to lift a patient when she started to have severe low back pain. At the time she was performing her duties as a home health aide. She was seen at the emergency room at ___ attended by ___.

An MRI of the lumbar spine performed on August 10, 2001 revealed an L5/S1 disc protrusion on the left sided S1 nerve root. There was also evidence of facet joint arthritis at that time.

On December 3, 2001, the patient underwent an L5/S1 discectomy with a laminotomy foraminotomy performed by ___. She was treated with post-operative care. ___ had persistent left leg pain and back pain. A second MRI was performed on April 12, 2002 that demonstrated evidence of scar tissue, most likely butting the S1 nerve root.

___, a pain management specialist, saw her on April 24, 2002. She underwent facet joint and sacroiliac joint injections. It is also noted that the patient is diagnosed with anxiety and depression.

A designated doctor exam performed on July 22, 2002 by ___ indicated that she was not at maximum medical improvement.

On October 17, 2002 and October 31, 2002 the patient underwent a series of lumbar steroid injections with catheter neurolysis that were performed by ___. She underwent a second designated doctor exam by ___ on November 22, 2002 who stated that she had reached MMI with a 5% whole person impairment rating.

On December 11, 2002 ___ was seen by ___, an orthopedic surgeon at ___. He opined that she was a fusion candidate and needed an L5/S1 fusion and possible repeat laminotomy and discectomy.

On May 2, 2003 the patient was seen by ___, a diplomat on the ___ for an independent medical evaluation. It was noted by ___ that she had persistent lower back pain and intermittent left leg pain and needed continued care. He recommended a discography prior to fusion.

On April 16, 2003 ___ gave his indications for the discography. He noted that the patient did undergo a laminotomy and discectomy for lower back and left leg pain. This was unsuccessful and she continued to have lower back as well as left leg pain. His examination of the patient demonstrated limited lower back motion with a positive straight leg raise. A subsequent myelogram demonstrated a defect on the left side of L5/S1 that was noted on the MRI showing perineural scarring. It was ___ opinion that the patient needed to have this addressed surgically.

REQUESTED SERVICE

Posterior spinal fusion at L5/S1 using OCBG instrumentation is requested for this patient.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

___ is a 43-year-old woman who sustained a L5/S1 herniated nucleosis pulposis with a left-sided S1 radiculopathy in a work-related injury on ___. The patient underwent an unsuccessful laminotomy and discectomy on December of 2001 for lower back pain and left leg pain. It is noted she had persistent symptoms to include low back pain with left leg pain consistent with ongoing radiculitis. The myelogram indicated persistent defect on the left side of L5/S1 with perineural scarring confirmed on the MRI. The physical examination does demonstrate limited lumbar motion, positive straight leg raise and subjective complaints of pain in the leg. Based on the information provided to the reviewer, the reviewer finds that the proposed posterior spinal fusion of L5/S1 using OCBG and instrumentation would be a reasonable and justifiable surgery for this patient's ongoing symptoms. The reviewer makes this recommendation based on the American Academy of Orthopedic Surgeons guidelines on low back pain, and because the patient has failed all conservative options and surgical interventions to include physical therapy, anti-inflammatory medicines, lumbar steroid injections, and pain management, and has ample objective findings consistent with degenerative disc disease at L5/S1 and micro-instability and left-sided S1 radiculitis.

___ 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 ___, dba ___, 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).