

August 6, 2003

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

MDR Tracking #: M2-03-1473-01-SS
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 51-year-old woman who has worked as a janitor for ___ for the past seven years. She injured her lower back while she was pushing and lifting a heavy trash container. She noted pain in the lower back that began to radiate around into her left leg. She was treated conservatively with medication, limited activities and physical therapy along with a home exercise program. The measures did not improve her symptoms and she continued to be unable to return to work. An EMG was done that was non-specific and did not demonstrate any definite evidence of L4 radiculopathy or radiculopathy of any kind. She had an MRI done on November 5, 2002 that demonstrated disc protrusion across the left L4 nerve root.

The patient was having symptoms radiating into the left thigh, which were felt to be due to this disc bulging at that level. The patient saw a spine surgeon, ___, on March 18, 2003. He stated that he did not feel that she should have a surgical procedure on her back. The patient continued to have ongoing pain with symptoms of radiculopathy although she did not have this demonstrated on the EMG. She had one epidural steroid injection and it did not give her any significant relief other than short-term temporary relief.

After total failure of all other measures, her treating physician, ___, has proposed a percutaneous disc decompression procedure at the L3/4 level under fluoroscopy control, which is known as nucleoplasty. This procedure is relatively new and does not have much literature to support its use.

However, it is an accepted alternative to disc surgery in a case of contained lumbar disc problems which are felt to be due to disc bulges directed into the nerve foramina. This procedure would be something that might relieve the patient enough so that open laminectomy and disc removal would not be necessary.

REQUESTED SERVICE

An L3/4 nucleoplasty is requested for this patient.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer finds that the proposed procedure should be tried on this patient in view of the fact that this patient wants to avoid surgery and her surgeon does not feel that any surgery is indicated. This is an outpatient procedure. If it does not relieve her symptoms, more extensive treatment could be considered at a later time.

___ 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 6th day of August 2003