

NOTICE OF INDEPENDENT REVIEW DECISION

October 14, 2003

Requestor

Pisharodi Clinic
Attn: Helen Bernal
942 Wildrose Lane
Brownsville, TX 78520

Requestor

Texas Mutual Insurance Company
Attn: Ron Nesbitt
221 W. 6th St., Suite 300
Austin, TX 78701

RE: Injured Worker:
MDR Tracking #: M2-04-0009-01
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) 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 TMF for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

TMF 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 TMF physician reviewer who is board certified in neurosurgery which is the same specialty as the treating physician. The TMF 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 TMF 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 an injury to his lower back and right leg on 08/__/00 while lifting boxes weighing approximately 60 to 70 pounds. An MRI performed 04/03/01 revealed a L4-5 disc herniation and small central L5-S1 disc protrusion. He has had conservative treatment including physical therapy, light duty, and anti-inflammatory and narcotic medications have not helped significantly.

Requested Service(s)

Posterior lumbar decompression with fusion and instrumentation at L4-5 and L5-S1.

Decision

It is determined that the proposed posterior lumbar decompression with fusion and instrumentation L5-S1 is medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The first intervention for chronic low back pain is to fix all factors which impede healing such as smoking, weight control, and reconditioning. The next step would be physical reconditioning (range of motion, aerobic training, resistance training). Any barriers that can be treated with injections, but those injections are only designed to get the patient back to reconditioning. They are not a treatment in and of themselves.

The rationale given for the previous denial is based upon the fact that this patient has not had epidural steroid injections (ESI). This is not based on evidence-based studies which clearly show the lack of efficacy for ESI in the setting of low back pain. Further, a laminectomy for the treatment of low back pain is not the procedure of choice. After two years, it is reasonable to consider a

fusion. Therefore, it is determined that the proposed posterior lumbar decompression with fusion and instrumentation at L-5 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** (ten) calendar days of your receipt of this decision (28 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) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for hearing and a **copy of this decision** must be sent to: Chief Clerk of Proceedings/Appeals Clerk, Texas Workers' Compensation Commission, P.O. Box 17787, Austin, Texas, 78744, Fax: 512-804-4011.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in this dispute.

Sincerely,

Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:vn

cc: Injured Worker
Program Administrator, Medical Review Division, TWCC

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 14th day of October 2003.

Signature of IRO Employee:

Printed Name of IRO Employee: