

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

SOAH DOCKET NO. 453-04-1357.M2

NOTICE OF INDEPENDENT REVIEW DECISION

October 27, 2003

RE: MDR Tracking #: M2-04-0121-01
IRO Certificate #: IRO 4326

___ 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 orthopedic surgery 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 an injury on ___ when he was hit by a 700-pound steel bearing, causing him to twist. He reported immediate back pain radiating into both lower extremities. He has undergone physical therapy, facet joint and epidural steroid injections with improvement, and a rhizotomy which lasted 11 months. The patient continues to complain of constant pain. Flexion/extension x-rays show instability at L5-S1.

Requested Service(s)

Lumbar CT/discogram and bilateral lower extremity electromyography (EMG) and nerve conduction velocity (NCV) studies

Decision

It is determined that the proposed lumbar CT/discogram and bilateral lower extremity electromyography (EMG) and nerve conduction velocity (NCV) studies are not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The medical records reviewed include the operative report on the rhizotomies and facet blocks performed, the lumbar myelogram and post-myelogram CT reports, and the MRI reports. There also was a note from the independent medical examination (IME) from a record dated 05/22/00 that the "examinee states he does not

want to have surgery at this time". There are no other notes found that indicate that the patient wishes to proceed with surgical intervention.

The bilateral lower extremity electromyography (EMG) and nerve conduction velocity (NCV) studies are not necessary. The patient does not manifest a neurological deficit. He does have some back and leg pain. He has multi-level degenerative changes in his lumbar spine. It is doubtful that an EMG would provide any significant information. There is no suggestion in the record that the patient is suffering from a myopathy or a neuropathy.

A discogram and a lumbar CT following it is indicated in a patient for whom surgery is planned. The lumbar discogram and post-discogram CT are normally used to verify the level of surgical intervention. There are no notes to indicate that the patient would consider surgical intervention. The orthopedic surgeon note does indicate "I feel that it is necessary to start the workup for surgery", but there is no indication that he has discussed surgery with the patient and that the patient would consider surgical intervention. Therefore, it is determined that the proposed lumbar CT/discogram and bilateral lower extremity electromyography (EMG) and nerve conduction velocity (NCV) studies are not 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,

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 27 th day of October 2003.
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