

NOTICE OF INDEPENDENT REVIEW DETERMINATION

MDR Tracking Number: M2-04-0132-01

October 9, 2003

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

Notice of Independent Review Determination

CLINICAL HISTORY

This is a 47-year old gentleman who was injured on ____. He was driving a large truck in a windstorm. The truck rolled several times and the patient was taken to a nearby urgent care center. Here he was treated for cuts and abrasions. He was then referred to ____, a local neurologist, complaining of low back as well as neck pain. The patient had an MRI scan of the cervical spine which showed a combination of posterior disc bulge and osteophytic changes at C3 which were posteriorly displacing the cord and minimally compressing it. He was also noted to have a broad-based disc protrusion at C6 posteriorly displacing the cord, creating mild cord compression. Studies were not included and these descriptors are taken from what appears to be an independent medical review performed by ____. ___ then performed an EMG in July of that year which revealed a chronic C7 radiculopathy. As the patient was not improving and had a positive EMG, ___ recommended a CT myelogram which showed significant root compromise and ventral disc bulge at C6. He was also noted to have mild bulges at C3 without any definite root abnormalities. The post-CT study revealed bony changes at C6, left greater than right, as well as cervical spondylosis. He was also noted to have

a mild bulge at C3. At this point ___ was referred to ___. ___ performed a cervical and lumbar discogram, feeling that the patient had failed conservative management. Discogram of the cervical spine found multilevel disease with severe concordant pain at C6. As a result of this, the patient had an anterior interbody fusion at C6. Unfortunately, post-operatively ___ has not improved. A repeat MRI scan of his cervical spine was performed in June of this year and compared to the pre-operative study in November of 2002, revealing post-operative changes with no significant spinal stenosis. Again, it was noted that the patient had a relatively spinal canal on a congenital basis and that there were some mild additional degenerative changes at C3. As a result, ___ has recommended a second discogram for this patient, in particular to look at the C3 level. He states that if the C3 level is symptomatic, would be a candidate for a cervical fusion at C3.

REQUESTED SERVICE(S)

Medical necessity of cervical discogram.

DECISION

Deny C2 through C7 discogram.

RATIONALE/BASIS FOR DECISION

The rationale for this denial is based upon this patient's own clinical course. While cervical discography studies are very scant and quite controversial, this patient's lack of improvement following a cervical fusion based upon a discogram that identified "severely concordant pain" illustrates the lack of understanding we have with regard to provocative discography. Of the information reviewed in this packet is a physician's statement and article by the North American Spine Society with regards to lumbar discography, a procedure which is also somewhat controversial. While this article, dated August 2001, clearly identifies the North American Spine Society's position on lumbar discography, it certainly does not touch upon the even more controversial issue, the infrequently used procedure of cervical discography. It therefore has no bearing on this discussion.

However, this patient serves as his own control. He has had a previous discography which apparently did not show concordant pain in the C3 area and if a second discography did indeed find that he now had "severe concordant pain" how would that relate to the injury of ___ Moving along, this patient has already had a surgical procedure for treatment of "severe concordant pain" and has not improved any substantial degree. It would be extraordinarily unlikely for this patient to improve now with a second cervical fusion based solely upon a provocative discography. Also, it would be unreasonable to perform a C3 fusion in this sitting, due to the intervening normal segments of C4 and C5. We could almost guarantee that one or both of these levels would ultimately fail secondary to the lever arms above and below them. And finally, the treating physician needs to address how intrinsic disc pathology would explain the patient's

complaints of pain radiating into his upper extremities as well as his statement that the patient is identified as having weakness and numbness of his hands.

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 (20 Tex. Admin. Code 142.5©).

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 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a 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

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

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 10th day of October 2003.