

NOTICE OF INDEPENDENT REVIEW DECISION

Date: October 27, 2003

RE: MDR Tracking #: M2-04-0138-01
IRO Certificate #: 5242

___ 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 an Orthopedic Surgeon physician reviewer who is board certified in Orthopedic Surgery and has an ADL Level 2. The Orthopedic Surgeon 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

The claimant has a history of chronic back pain allegedly related to a compensable work injury on ___ following a repetitive use injury digging a ditch.

Requested Service(s)

L4/5, L5/S1 "annuloplasty"

Decision

I agree with the insurance carrier that the requested intervention is not medically necessary.

Rationale/Basis for Decision

IDET (annuloplasty) has similar indications as lumbar fusion. A discogram/CT is a pre-operative diagnostic test to help determine levels of spinal fusion or levels for annuloplasty. There is no indication for a discogram to determine if the injured worker has discogenic pain unless and until documentation of the level of that pain, exhaustion of conservative treatment, and radiographic findings indicate fusion to be under active consideration. There is no documentation to support fusion in this clinical setting. MRI indicates degenerative disc disease. There is no

documentation of instability or significant surgical lesion at any motion segment level of the lumbar spine. Furthermore, there is no documentation of conservative measures including, but not limited to, bracing and physical therapy with emphasis on spinal stabilization (McKenzie program). Discography is a controversial test that can demonstrate anatomic abnormality in asymptomatic people and subjective response can be widely skewed particularly with psychological issues. The claimant has a history of severe depression. Discography is not a primary diagnostic tool, but a confirmatory study in the presence of an established diagnosis of a significant disc condition when spinal fusion is anticipated. Continued conservative treatment and further diagnostic work up is strongly recommended in this clinical setting.

YOUR RIGHT TO REQUEST A HEARING

Either party to 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 a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk
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 other party involved in this dispute.