

## NOTICE OF INDEPENDENT REVIEW DECISION

November 4, 2003

RE: MDR Tracking #: M2-04-0195-01-SS

IRO Certificate #: IRO4326

\_\_\_ 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 was injured on \_\_\_ when he lifted a stack of trays and twisted, feeling a pop and pain in his lower back which started radiating down into the right buttocks and leg. He has attended physical therapy, taken anti-inflammatory medications, and had lumbar epidural steroid injections. Lumbar MRI and post-myelogram CT both revealed herniated discs at L4-5 and L5-S1. Two requests for a discogram were denied as required prior to an intradiscal electrothermal therapy (IDET) procedure. Consequently, the surgeon and patient are now requesting surgical intervention.

### Requested Service(s)

Lumbar laminectomy, posterior lumbar interbody fusion, pedicle screws, cage, and bone graft

### Decision

It is determined that the proposed lumbar laminectomy, posterior lumbar interbody fusion, pedicle screws, cage, and bone graft are not medically necessary to treat this patient's condition.

### Rationale/Basis for Decision

The orthopedic surgeon was appropriate in requesting a lumbar discogram and a post-discogram CT scan. These procedures were denied but are medically necessary prior to performing surgery of this nature. This patient meets all the criteria necessary for a discogram. The patient has abnormalities at multiple levels in the lumbar spine. He has failed to respond to non-operative management including physical therapy, medications, epidural steroid injections, sacroiliac injections, time, and exercise.

There are abnormalities noted on the MRI of 03/08/02 at the L3-4, L4-5, and L5-S1 levels. These abnormalities are also noted on the lumbar myelogram and the post-myelogram CT performed 04/09/02. The electromyography (EMG) study dated 03/14/02 is consistent with a right L4 and S1 radiculopathy.

When the patient has failed non-operative measures and has the appropriate organic pathology, then surgical intervention is a reasonable option. However, standards of care dictate that a discogram and the following CT scan be performed prior to surgical intervention. Therefore, it is determined that the proposed lumbar laminectomy, posterior lumbar interbody fusion, pedicle screws, cage, and bone graft 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 4 <sup>th</sup> day of November 2003.
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