

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

**SOAH DOCKET NO. 453-04-1539.M2**

**NOTICE OF INDEPENDENT REVIEW DETERMINATION**

MDR Tracking Number: M2-04-0243-01

November 6, 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 30-year old gentleman who hurt himself in \_\_\_\_. He was lifting up a 20 to 30 pound bag of dog food and apparently hurt his back. This started an extremely long conservative management with the patient being followed by what appears to be three different neurosurgeons. The first left the area and handed his patient off to his partner, who then retired and handed the patient off to a third neurosurgeon. Physicians #2 and 3 have both requested discography to evaluate the patient's ongoing back pain and to date it has been denied. The last reviewer who denied this described discography as an effective way of determining a painful disc; however, an ineffective manner in which to determine whether surgical procedures are appropriate and described the NASS position that localized injections would be a better indicator of final results.

REQUESTED SERVICE(S)

Discography of the lower three lumbar spaces.

DECISION

Approve the discography.

RATIONALE/BASIS FOR DECISION

This patient has been treated in a conservative fashion for ten years. He has had multiple courses of physical therapy which included work hardening, evaluations by back specialists, he has seen pain management physicians, and he has had psychiatric counseling as well as epidural steroid injections. The patient continues to be disabled by his back pain. While he has moved from job to job throughout these ten years worth of records, it is of note that the patient has been employed for the vast majority of that time. His work activity has been curtailed to above sedentary levels well below his heavy levels that he was working at when he was 20 years old, when his injury occurred. However, he has maintained relatively stable employment which speaks strongly to his motivation. Further, this patient has complained of exactly the same symptoms for the previous ten years, all of which date back to the original injury.

Therefore, the CT discogram of the lower three lumbar levels should be performed. While some feel the discography is, in fact, a controversial procedure, in some situations it is appropriate and does indeed help the treating physician to tailor treatment. In this gentleman who has, in fact, remained relatively motivated for the past ten years, has had a consistent single complaint of rather stereotypical low back pain which has been resistant to multimodality conservative management, all this while maintaining gainful employment throughout this time, a discogram and possible cervical fusion may dramatically improve the quality of his life.

As stated, this patient has remained motivated throughout the course of his injury. Certainly, the NASS physician would agree that discography has some value in certain patients. This position is also helped by the American Association of Neurologic Surgeons; site Dr. Ed Benzel's book, *The Surgical Treatment for Low Back Pain*. This patient is one of those individuals in which discography would be a helpful procedure to determine whether a surgical fusion would be appropriate.

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 10<sup>th</sup> day of November 2003.