

NOTICE OF INDEPENDENT REVIEW DECISION

Date: November 19, 2003

RE: MDR Tracking #: M2-04-0275-01-ss
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 ___.

Requested Service(s)

Posterior lumbar interbody fusion and spinal instrumentation.

Decision

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

Rationale/Basis for Decision

A review of documentation indicates no independent evidence of significant disc pathology to indicate fusion. Plain films of the lumbar spine indicate "early narrowing" of the L5/S1 disc space. Films are not available for review; however, there is no documentation of significant loss of disc space height, listhesis, and there is no documentation of flexion/extension views to indicate any significant instability at the L5/S1 motion segment level. Notwithstanding a lack of clear indications for discography, discogram report indicates nonconcordant pain. The claimant has a history of symptoms of "low back pain with radiation into the tailbone, bilateral buttocks, bilateral thighs, calves, ankles, as well as the small toes". Generally a discogram/CT scan is a pre-operative diagnostic test to help determine levels of spinal fusion. 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 (Pain Phys 2003; 6:3-81). A discogram is performed at levels where there is suspected surgical lesion plus at least one level as a control. Discography is a controversial test that can demonstrate anatomic abnormality in asymptomatic people and subjective response can be widely skewed particularly with psychological issues. 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. A review of the discogram performed indicates pain was reproduced only in the back and the buttocks. There is no discussion of radiating pain into the thighs, calves or toes. There is no clear documentation of concordant pain. There is documentation of electromyogram/nerve conduction velocity study dated 8/31/01 that suggests right S1 nerve root irritation. There is no documentation of recent electromyogram/nerve conduction velocity study to verify whether the right S1 nerve root irritation has resolved. There is no evidence of significant nerve root compression according to MRI report dated 7/10/02. Documentation does not support that posterior lumbar interbody fusion is reasonable or medically necessary according to the documentation provided.

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.