

November 19, 2003

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TWCC Medical Dispute Resolution
MS-48
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MDR Tracking #: M2-04-0306-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in Neurology. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

___ a 33-year-old male, injured his lower back when lifting heavy objects at work on ___. He was seen by ___ on the date of injury who diagnosed lumbar strain injury and prescribed medications. He underwent physical therapy beginning on 6/3/99 at ___ in ___. Plain x-rays of his lumbar spine on ___ showed mild spurring at L4/5 only. He was assigned a 4% whole person impairment rating by the treating physician, ___, on 9/15/99 with an MMI date of 9/10/99.

He had a lumbar MRI scan on 11/23/99 that showed a central disc extrusion at L5/S1 extending slightly to the left midline, and a nonspecific abnormal signal in the posterior paraspinous muscles at the left L4/5 level. ___ felt that conservative therapy was in his best interest without a need for surgery. ___ was released back to work at light to medium duty.

He underwent a series of lumbar epidural steroid injections by ___ beginning on 12/16/99. On 12/16/99 a designated doctor exam with ___ found him with a 10% rating and an MMI date of 12/16/99. He underwent additional therapy at ___ beginning on 1/10/00.

An Independent Medical Examination with ___ assigned ___ a 15% whole person impairment rating with an MMI date of 6/27/00.

He saw ____, neurosurgeon, again on 9/11/00. His impression was a herniated disc at L5/S1 without radiculopathy, rule out SI joint inflammation on the left. He recommended additional x-rays. Plain x-rays of the pelvis and lumbar spine on 9/18/00 showed mild scoliosis and mild degenerative disc disease at L3/4 and L4/5. He had a normal bone scan on 9/18/00. ____ recommended a full work hardening program on his visit with ____ on 9/29/00.

He was seen by a neurosurgeon, ____, on 12/12/00, and he felt the patient had a disc extrusion at L5/S1 with no evidence of radiculopathy.

____ an orthopedist, recommended a lumbar MRI scan to see if the disc had resolved on his report dated 4/3/01. A repeat MRI scan on 4/30/01 showed a focal central and left paracentral disc protrusion at L5/S1 in contact with the left S1 nerve root, unchanged in interval from the prior study in November of 1999. He apparently had L5/S1 laminectomy and bilateral foraminotomies and discectomies on 10/31/01 by ____ without medical documentation.

He had a third lumbar MRI scan on 8/23/02 that showed laminectomy at L5/S1 with facet arthrosis at L3/4 and L4/5. This was unchanged from the previous study of December 2001. The diagnosis at the ____ and the ____ on 10/15/02 was spondylolisthesis.

____ had a second surgery by ____ on 10/17/02, consisting of an L5/S1 laminectomy and pedicle fusion with cages. The diagnosis by ____ on 3/5/03 was spondylolisthesis with intractable back pain. He was put on OxyContin at that time. He had a psychological evaluation on 5/28/03 with the diagnosis of psychological disorder associated with a medical condition. On 7/1/03 ____ recommended another MRI lumbar scan with and without contrast because "he is so many months postoperative from his lumbar fusion surgery and still not having any improvement in his symptomatology."

The last report available for review is from ____, documenting continued complaints of back pain. A previous report by ____ on 9/21/03 gave the diagnosis of lumbar disc displacement, lumbosacral spondylolysis with another request for an MRI scan.

REQUESTED SERVICE

A repeat lumbar MRI is requested for this patient.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

This patient injured his lumbar spine at work on _____. He has had two lumbar surgeries to include a discectomy and laminectomy at L5/S1 in October 2001 and an L5/S1 fusion in October 2002 with continued complaints of back pain. His last MRI scan was on 8/23/02 and showed no change from the previous study in 2001 with the laminectomy at L5/S1 and unchanged epidural fibrosis on the left at that level.

The reviewer, a board-certified neurologist and fellow of the American Academy of Disability Evaluating Physicians, finds that ____ does require a repeat lumbar MRI scan, as he has not had a scan done since his last surgery on October 17, 2002. A reference would be Campbell's Operative Orthopedics, 10th Edition, Moseby, pages 1999 and following on Lumbar Disc Disease.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy.

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

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.

I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 19th day of November 2003.