

NOTICE OF INDEPENDENT REVIEW DETERMINATION

MDR Tracking Number: M2-04-0331-01

November 17, 2003

An independent review of the above-referenced case has been completed by a medical physician board certified in orthopedic surgery. 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 43-year old gentleman who was hurt in ____ while he was working for _____. He apparently was bending down to pick up some equipment and felt an electric shock in his waist and posterior back with extension into his right groin area. For this he was treated with physical therapy, anti-inflammatory agents and anti-spasm agents. Ultimately he had x-rays as well as an MRI scan, the latter of which showed he had fissures within the discs at both L4 and L5 and relatively normal flexion/extension lumbar spine films. He has been treated with intradiscal electrotherapy at the L3, L4 and L5 discs after a pre-procedure discogram at those three levels showed non-concordant pain at both L3 and L4 and severe concordant pain at L5 being rated 10/10. After the IDET procedure the patient did reasonably well for approximately two months, although not with complete resolution of his symptoms and unfortunately the low back pain has now returned. Because of the patient's persistence in terms of symptoms despite multiple modality conservative management, he is now being considered for a lumbar fusion, possibly from L3 through the sacrum. In anticipation of that procedure and in hopes of reducing the number of levels involved, the patient's physician, ____ has recommended a second discogram in an effort to limit the number of fused levels.

REQUESTED SERVICE(S)

Four level discogram involving L3, L4 and L5, the previous levels of treatment and L2 as a control level.

DECISION

The procedure is reasonable in this case.

RATIONALE/BASIS FOR DECISION

It is an extraordinary patient who needs a three level lumbar fusion. While IDET has not been a well-studies procedure, at least in peer reviewed literature, and certainly the track record is quite checkered and this patient is a testament to that. There is the potential, as ___ states, that the procedure has had some salutatory effect on the adjacent levels. This patient had non-concordant pain at both L3 and L4 and only concordant pain at L5. Previous reviewers have not focused on this. This would be a legitimate reason not to allow this discogram. Specifically and in plain English, because ___ has already found his painful level, that being at L5 and without a substantial change in the patient's physical exam or character of the pain, neither of which is documented in this information, then the L5 level would be the one he would want to treat. However, if the clinician feels that the adjacent levels are problematic at this point, then any type of procedure that would limit their involvement in a fusion is to be recommended and a discogram would be a prudent way of doing that.

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 18th day of November 2003.