

January 7, 2004

Re: MDR #: M2-04-0366-01
IRO Certificate No.: 5055

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to ___ for an independent review. ___ has performed an independent review of the medical records to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is Board Certified in Pain Management.

Information Provided for Review:

Correspondence.
H&P and office notes.

Brief Clinical History: This claimant was injured at work on ____. No medical records prior to 5/9/02 were provided detailing the treatment received before that date. However, according to a letter of medical necessity dated 2/25/03, the claimant had previously undergone lumbar laminectomy in April 1999 and again in June 2000. He had a discogram on 4/16/01, which allegedly caused concordant pain reproduction and morphologic abnormalities at the L4-L5 and the L5-S1 discs, but also concordant pain reproduction at L3-L4 with no morphologic abnormalities at that level.

Treating doctors both continually document the claimant's complaint of lumbar and nonspecific leg pain due to failed back surgery syndrome in each of their progress notes from 5/9/02 thru 11/6/03. During that time period, the claimant was told to consider referral to a chronic pain program to address his ongoing pain on multiple occasions. No other treatment is documented as having been provided during that 18-month time period.

The claimant was seen on 1/23/03 for an initial evaluation. Mildly diminished sensation in the left lateral calf with mildly positive left tension signs was documented. X-rays demonstrated mild narrowing of the L4-L5 level with good alignment, no fractures, and no bony lesions. A lumbar discogram report on 4/16/01, confirms concordant pain and morphologic abnormalities at the lower 2 discs with concordant pain and no morphologic abnormalities at the L3-L4 disc. Based on these results, the doctor stated that there was not enough information to recommend fusion, and there was technically no negative control level of the discogram. He recommended that the discogram be repeated.

He also stated that a 2-level fusion might not significantly improve the claimant's symptoms since the L3-L4 level was also painful, but that a 3-level fusion would provide significant relief, and he would "hesitate" to recommend this due to the claimant's age. On 2/25/03, the treating doctor wrote a letter of medical necessity to repeat the lumbar discograms at the L3-L4, L4-L5, and L5-S1 levels to confirm the previous results, as well as to do a discogram at L2-L3 to "look for a normal control".

Disputed Services: Discography lumbar Rad S&I.

Decision: The reviewer agrees with the determination of the insurance carrier and is of the opinion that the procedure in dispute is not medically necessary in this case.

Rationale: This claimant has had a control disc injection at the L3-L4 level. The L3-L4 level is morphologically normal, yet there was "concordant" pain response with injection of that morphologically normal disc. There is no medical reason or necessity to inject another morphologically normal disc, as morphologically normal discs should not and cannot cause pain. Therefore, the claimant's pain response to injection of the morphologically normal L3-L4 disc invalidates whatever information may have been obtained at the other 2 levels of discography and would also invalidate any information obtained upon injection of another morphologically normal disc.

Numerous studies have demonstrated that pain response in a morphologically normal disc is an exclusionary criterion for doing any invasive surgery including fusion. The doctor states that he would not consider doing a 3-level fusion and that a 2-level fusion might not significantly improve the claimant's symptoms based on the pain response at L3-L4, which was structurally normal. Therefore, since the claimant has already had clear documentation of an invalid, non-physiologic pain response to injection of a morphologically normal L3-L4 disc, there is no medical reason or necessity to repeat lumbar discography or do any further levels to "look for a normal control".

I am the Secretary and General Counsel of ___ and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this care for determination prior to referral to the Independent Review Organization.

We are simultaneously forwarding copies of this report to the payor and the Texas Workers' Compensation Commission. This decision by ___ is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this 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 ten (10) days** of your receipt of this decision (28 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 twenty (20) days** of your receipt of this decision (28 Tex. Admin. Code 148.3).

This Decision is deemed received by you **five (5) days** after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5 (d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings
Texas Workers' Compensation Commission, MS-48
7551 Metro Center Dr., Ste. 100
Austin, TX 78744-1609

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

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 January 7, 2004