

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NO.:**

SOAH DOCKET NO. 453-04-2776.M2

January 9, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-04-0536-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in neurosurgery. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 37 year-old male who sustained a work related injury on ___. A MRI scan of the lumbar spine dated 3/31/01 indicated left paracentral disc protrusion at L5-S1 and some disc desiccation and disc bulging at the L4-L5 and L5-S1 level. The patient underwent a second MRI of the lumbar spine on 11/2/02 that indicated L4-L5 4mm focal posterior central disc herniation, and 2mm L5-S1 focal posterior central disc herniation. A third MRI dated 11/22/03 showed a 3-4mm focal posterior central disc protrusion/herniation, and a L4-L5 3-4mm focal left paracentral disc protrusion/herniation. EMG dated 6/7/03 showed lumbar poly-radiculopathy affecting the bilateral L5 and S1 nerve roots. A lumbar myelogram with CT scan following was performed on 11/14/01. Treatment for this patient's condition has included physical therapy, rehabilitation, epidural steroid injections, chiropractic adjustments, hot pack, electrical stimulation and a work hardening program of which the patient was only able to tolerate two days of. The patient was referred to a neurosurgeon who has recommended a lumbar discogram followed by surgical intervention.

Requested Services

Lumbar Discogram.

Decision

The Carrier's denial of authorization for the requested services is upheld.

Rationale/Basis for Decision

The ___ physician reviewer noted that this case concerns a 37 year-old male who sustained a work related injury to his back on ___.

The ___ physician reviewer also noted that the diagnoses for this patient have included disc desiccation, disc bulging a 4mm focal posterior central disc herniation at the L4-L5 levels. The ___ physician reviewer further noted that treatment for this patient's condition has included physical therapy, rehabilitation, epidural steroid injections, chiropractic adjustments, hot pack, electrical stimulation and a work hardening program. The ___ physician reviewer explained that the patient was referred to a neurosurgeon who recommended a lumbar discogram followed by surgical intervention. The ___ physician reviewer indicated that this patient has atypical clinical symptomatology. The ___ physician reviewer noted the results of an EMG the patient underwent were consistent with polyneuropathy and 75% back pain. The ___ physician reviewer also noted that the patient underwent a MRI, however the results did not support the medical necessity of a discography. The ___ physician reviewer further explained that the patient has not exhausted all non-operative modalities. Therefore, the ___ physician consultant concluded that the requested lumbar discogram is not medically necessary to treat this patient's condition at this time.

This decision is deemed to be a TWCC Decision and Order.

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)** days of your receipt of this decision. (20 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)** 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. (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings/Appeals Clerk
P.O. Box 17787
Austin, TX 78744
Fax: 512-804-4011

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. (Commission Rule 133.308(t)(2)).

Sincerely,

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 9th day of January 2004.