

## NOTICE OF INDEPENDENT REVIEW DECISION

January 9, 2003

MDR Tracking #: M2-04-0601-01  
IRO Certificate # IRO4326

The \_\_\_ 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 a \_\_\_ physician reviewer who is board certified in orthopedic surgery which is the same specialty as the treating physician. The \_\_\_ 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

This patient sustained an injury on \_\_\_ after lifting a fan weighing 100 pounds. He reported back pain as well as bilateral lower extremity pain. An MRI dated 08/10/01 revealed disc herniations at L4-5 and L5-S1. Conservative treatments have included anti-inflammatory and pain medications, chiropractic care, physical therapy, and a pain management program.

### Requested Service(s)

Lumbar discogram

### Decision

It is determined that the proposed lumbar discogram is not medically necessary to treat this patient's condition.

### Rationale/Basis for Decision

The provider's note dated 08/15/03 states that the discogram will be "done to identify which level needs to be addressed: L4-5 and/or L5-S1. This will be done as a diagnostic study to determine which level to do the surgery on". However, in the paragraph above, it is noted "he does not want a fusion to help out the back pain. He would rather have a smaller surgery".

Discography can be used to help determine which discs may be painful for the treatment of back pain. It is very rarely used for the determination of radicular symptomology.

The provider's progress notes state that the patient has weakness of his extensor hallucis longus (EHL) and a decreased ankle jerk on the right. When the patient was evaluated by the neurologist on 07/17/03, he stated "strength in bilateral upper and lower extremities is 5/5 with normal tone". He does not note any weakness of the EHL. He also notes that the deep tendon reflexes are 1+ and symmetrical in the upper extremities, trace at the knees and absent at the ankles.

On nerve conduction studies, the results revealed "bilateral sural sensory responses were absent". His conclusion was that the patient had a "moderate sensory motor polyneuropathy...with evidence of secondary demyelination likely secondary to diabetes mellitus". This diabetic polyneuropathy involving both motor and sensory branches could account for the reflex changes noted above. The medical records from the chiropractic clinic do not indicate any weakness on the physical objective signs.

On 08/21/02, the provider states that the patient "has neurological deficit which corresponds with the herniated lumbar disc". However, the neurological deficit was not noted by subsequent examiners nor was related to a lumbar radiculopathy. It was related to peripheral neuropathy.

Discography can be used to help determine painful discs for the purposes of surgical fusion. It is very rarely used to determine which level a decompression procedure should be performed. Therefore, it is determined that the proposed lumbar discogram is not medically necessary.

This decision by the IRO 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) 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 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, Fax: 512-804-4011.

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

Sincerely,