

NOTICE OF INDEPENDENT REVIEW DETERMINATION

MDR Tracking Number: M2-04-0610-01
IRO Certificate Number: 5259

January 12, 2003

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. 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 ___.

CLINICAL HISTORY

This is a 53-year-old gentleman who, on ____, was picking up a guard rail which weighed between 25 and 30 pounds and developed a snap in his back and acute low aback pain. Prior to that, the patient had no history of low back pain or injury. He also noted paresthesias extending down into the dorsal aspect of his right leg. Since that time he has had fairly extensive management. He has been treated with physical therapy which provided him with no lasting improvement. Indeed, he felt that he got a little worse with that. He has had a total of what sounds like three injections, including facet joint injections and epidural steroid injections that only left him with two to three days' worth of relief. He has had an EMG which is reported in other medical records as being positive for a lumbosacral radiculopathy. He has had an MRI scan which sounds not very impressive. Mostly degenerative changes are seen, although he does have a lumbosacral paracentral disc protrusion and some mild facet joint arthropathy. His physical exam has pretty much been non-focal with the exception that he does have patches of numbness in his right leg. Because of the patient's lack of improvement in the face of multimodality conservative management as well as

the passage of time, the patient's treating physician has recommended a discogram with consideration for possible fusion.

REQUESTED SERVICE (S)

Lumbar discogram with CT to follow.

DECISION

The requested service is appropriate.

RATIONALE/BASIS FOR DECISION

The standard algorithm for the treatment of chronic low back pain is first to attend to any remediable factors which would include being overweight, de-conditioned, use of tobacco and use of narcotics. Documentation reviewed does not indicate that these remediable factors have been addressed, but there are notations stating that the patient should attempt to lose weight. Unfortunately, the patient has been gaining weight secondary to his restricted activities which is caused by his low back pain.

Following addressing remediable factors, the next step is graduated physical activity. This can be started with physical therapy for those who are severely disabled by their problems or, in folks who are doing better, more aggressive activity including running, bicycling and swimming as well as some weight lifting should then be endeavored. Any impediment to the reacquisition of fitness should be dealt with through pain management which this patient has experienced. Epidural injections and facet joint injections have both been attempted and the patient has not had any long-lasting or significant reduction in his low back pain. In a situation such as this, then physical causes of the low back pain are investigated. An MRI scan has been performed and he has been found to have degenerative changes which are relatively common for a man of this age, not to mention the fact that the patient is now working as a laborer. While these MRI findings are relatively common, it is certainly well-known that some degenerative changes can and often are exacerbated by aggressive physical activity and the injury involved could possibly fulfill that criteria, and in such a situation one can develop chronic low back pain. There is agreement that to some degree, discography is a very suggestive and misleading test. Certainly discography has some very vociferous proponents as well as opponents. With this controversy, we look to guidelines given by large institutions such as the North American Spine Society which clearly recognizes that discography can be useful when it is viewed in the context of physical exam and patient's emotional well-being. As this patient has been treated appropriately and no lasting improvement has been achieved, a surgical procedure can be considered appropriate at this point. Prior to the consideration of that surgical procedure, a discography would be a reasonable undertaking.

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 13th day of January 2004.