

February 20, 2004

Re: MDR #: M2-04-0687-01-SS
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.

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.

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 Spine Surgery.

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.

REVIEWER'S REPORT

Clinical History:

This patient is a 36-year-old gentleman who was injured ____. He was followed at that time conservatively with lumbar radiculopathy. He presented back with worsening back pain greater than left leg pain, and surgery was proposed

On latest follow-up on September 26, 2003, the patient's main complaints were that of low back and left leg pain, and the low back pain is greater than that of the leg pain. I have a report of a myelogram and CAT scan of the lumbar spine dated September 5, 2003. Findings are that of broad-based disc herniation at L5-S1 with encroachment upon both nerve root sleeves of S1, worse on the left. There is bilateral moderate to severe foraminal narrowing at L5-S1, worse on the left. A 2-3 mm diffuse protrusion at L4-L5 with 1-2 mm retrolisthesis produces a moderate ventral deformity at that level.

Based on this information, the treating surgeon recommended an L4-L5 and L5-S1 decompression and fusion, and during the medical review process the fusion at L4-L5 was refused; therefore, consideration for fusion was then only at L5-S1, which was further refused. Upon request for additional information, a report of an MRI scan of the lumbar spine dated 05/08/01 was provided, which reveals degenerative disc disease at L4-L5 and L5-S1 with normally hydrated discs above this level. There are also findings of nerve root encroachment on that MRI scan as well.

Disputed Services

Lumbar fusion at L5-S1.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that lumbar fusion at L5-S1 is not medically necessary in this case.

Rationale:

Since the patient's present symptoms are that of mainly back pain greater than leg pain, to determine if the lower 2 discs are the pain generator, then discography at L4-L5 and L5-S1 with control at L3-4 and post-discography CAT scan would be medically necessary prior to considering surgery.

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 February 20, 2004

Sincerely,