

February 20, 2004

David Martinez  
TWCC Medical Dispute Resolution  
MS-48  
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Austin, TX 78744-1609

MDR Tracking #: M2-04-0730-01-SS  
IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in Orthopedic Surgery. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

#### CLINICAL HISTORY

This patient, an employee of the \_\_\_, was approximately 48 years old on the date of her injury, on \_\_\_ when she reported a slip and fall with a co-worker on ice. It has now been over two years since her date of injury. She has not successfully recovered, in regard to the desired outcome and pain control, from her ongoing complaints of pain in her neck with referred pain down her arm. She has had diagnostics including a myelogram, CT, EMG/NCV and MRI. She has had therapeutic intervention including medication, epidural injections, chiropractic treatment and chronic pain management. Her history is remarkable for adult onset diabetes. She experienced a cervical spine injury approximately ten years ago in which she underwent a C5-6 anterior cervical arthrodesis without instrumentation, apparently with good results. She has now been seen by two neurosurgeons, both whom recommended a C4-5 arthrodesis, a transitional level above her previous fusion. An MRI shows a broad based disc protrusion without nerve root compression or spinal compression with uncovertebral hypertrophy. Although nerve testing was normal, she continues to have subjective complaints of numbness and tingling to her right arm and hand. Two requests for surgeries have been declined, with the rationale that the psychosocial issue put the benefits risk ratio as an adverse predicament, and that in review of peer reviewed literature, including literature review authored by Carlson Natchenson, revealed that surgical treatment versus conservative care for neck pain, showed no real benefit. Also, the Cochran's Collaboration did not find that surgery was better than conservative treatment.

REQUESTED SERVICE

Anterior Cervical Discectomy and Fusion at C4/5 is requested for this patient.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

Rationale for this decision is based on the fact that \_\_\_ has had a previous neck injury and neck surgery, with reported success and returned back to work. The major level of pathology is at the transitional level at C4-5, above a previous C5-6 fusion. Transient benefit was reported from epidurals, without long lasting efficacy, and the odds are that if she were to recover with conservative care, she would have done so to a significant degree, with the conservative care to date over the past two years. This reviewer is particularly in favor of the Cochran's Collaboration evidenced based medicine, and using the literature for generalization to assist in review of treatment; however, one cannot generalize treatment for all situations and must look at specific instances on an individual basis.

In this particular situation, the patient has had previous surgery with success. The level of concern is a transitional level, and pathology is confirmed by MRI, and is non-compressive, confirmed by myelography and nerve testing. Although provocative discography would have been helpful in confirming the pain generator, facet blocks and medial branch blocks, which are commonly employed by pain physicians, have not discussed in this particular case, which would have been helpful in facilitating rehab efforts, but at two years is unlikely to have long lasting benefit.

In the generally accepted surgical practices, the indications for surgery, risk and benefits and use of probabilities regarding the intended outcome, this patient was at risk for transitional breakdown at the level above, irregardless of her reported injury and with the failed conservative treatment over the past two years, including medication, injections, chiropractic, physical therapy and time. The proposed surgery, although at risk for creating further difficulties and at risk of providing no benefit, appears reasonable, provided all parties are of the understanding of the risk and benefits of the proposed surgery.

All things remaining equal, the fact that she has had previous surgery with success and returned back to work. There is also some hope that the proposed surgery would be of benefit knowing that the outcome of two years of conservative care is reported unsatisfactory.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy.

As an officer of \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

## YOUR RIGHT TO REQUEST A HEARING

Either party to 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 a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk  
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 other party involved in this dispute.

**I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 20<sup>th</sup> day of February 2004.**