

February 4, 2004

MDR Tracking #: M2-04-0745-01

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

___ is now a 52-year-old male. He sustained injury to his back on ___ while he was working. He had pain in the low back with radiation down the leg, which did not respond to conservative treatment. On June 1, 1999 he had surgical decompression of his back, this was a disc removal with decompression of the nerve roots at L4 and L5 on the left side with fusion of the lower two joints in the lumbar spine. Following surgery he did reasonably well, but developed a large disc herniation just above the fusion site, which was felt to be due to lumbar instability. This created a foot drop, which was apparent in January of 2000. ___ subsequently underwent surgery for removal of that recurrent disc at L3/4. The foot drop was not improved, and it continued to be present. The patient continued to have severe pain in the low back with leg radiation. At one time in November of 2000 surgery had been scheduled for re-exploration of the nerve roots on the left side and probable fusion of the L2/3 joint, but it was cancelled. The reason for cancellation was the fact that the patient, a diabetic, does not control his diabetes well. His diabetes was not under control at the time of the proposed surgery, therefore his surgeon did not feel that it was wise to proceed with any more surgery at that time.

He continued to have intractable pain going from his back down his leg. He was seen in April 2001 and still had the foot drop. The fusion appeared to be solid on x-rays. He was not seen for about two years, and then he came back to see ___, his surgeon, on August 14, 2003. He was having severe low back pain with the left leg pain and his foot drop was still complete. ___ felt that ___ condition was worsening.

He felt that he would probably need to work up, and that he might need surgical decompression of the L2/3 joints, which was the joint immediately above the fusion. ___ continued to have symptoms and the symptoms of pain continued to be severe. His foot drop remained stable because it was a complete foot drop and it actually did not progress.

He then saw ___, who ordered a myelogram with CT scan for evaluation of the neurological pressure this patient was having in his back. The insurance carrier has denied this procedure.

REQUESTED SERVICE

A lumbar myelogram with CT scan is requested for this patient.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The ___ reviewer agrees with the orthopedic surgeon that this patient is in need of a CT scan with myelogram. He has a complete foot drop on the left side, and his symptoms are clinically becoming more severe. ___ has had basically no diagnostic studies on his neurologic status in the last three or four years. The reviewer finds that this study is indeed indicated to determine if further surgery is indicated, and if so, to determine what type of surgery.

___ 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 ___, Inc, dba ___, 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 4th day of February 2004.