

NOTICE OF INDEPENDENT REVIEW DECISION

Date: March 9, 2004

MDR Tracking #: M2-04-0767-01-SS
IRO Certificate #: 5242

___ 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 an Orthopedic Surgeon reviewer (who is board certified in Orthopedic Surgery) who has an ADL certification. 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

The claimant has a history of chronic back pain allegedly related to a compensable work injury that occurred on or about ___.

Requested Service(s)

Anterior L5/S1 discectomy with fusion, pedicle screw and fixation.

Decision

I agree with the insurance carrier that the requested intervention is not medically necessary.

Rationale/Basis for Decision

Generally indications for lumbar fusion are intractable pain and objective documentation of a surgical lesion at an isolated motion segment level. Upon review of all documentation provided, there is no evidence of a significant surgical lesion at the L5/S1 motion segment level. An MRI report dated 8/14/01 documents no evidence of disc bulge or herniation at L5/S1. A complete lumbar spine series x-ray report dated 9/21/01 documents no translocation in position with flexion and extension maneuvers. An EMG/NCV report dated 3/18/02 by ___ documents a normal study. Discography is a controversial test that can demonstrate anatomic abnormality in asymptomatic people and subjective response can be widely skewed particularly with psychological issues. Discography is not a primary diagnostic tool but a confirmatory study in the presence of an established diagnosis of a significant disc condition when spinal fusion is anticipated.

Notwithstanding a lack of documentation of an established diagnosis of a significant disc condition, discogram was performed on 9/11/02. Results of the discography indicate pain reproduced at L3/4 and L5/S1. Post discogram CT documents “grade IV tear” at L3/4, L4/5 and L5/S1. The discogram performed on 9/11/02 in no way isolates pathology or subjective response to any single motion segment level. There is no documentation of exhaustion of conservative measures of treatment including but not limited to oral nonsteroidal and steroid anti-inflammatory medication, bracing, and physical therapy with emphasis on dynamic spinal stabilization/McKenzie. I strongly recommend continued conservative management in this clinical setting.

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 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.