

March 24, 2004

Re: MDR #: M2-04-0781-01-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 Orthopedic Surgery and is currently listed on the TWCC Approved Doctor List.

### **REVIEWER'S REPORT**

#### **Information Provided for Review:**

Correspondence  
History & physical exam and office notes  
Physical therapy notes  
Nerve conduction study & FCE  
Operative and Radiology reports

#### **Clinical History:**

The patient is a 27-year-old gentleman who injured his back lifting weight at work. He was treated conservatively with plenty of back pain radiating to the left leg. He was complaining of primary pain in the left back and left leg. He was worked up, revealing disc bulging of the lumbar spine, and the treating doctor wanted to perform a nucleoplasty percutaneous at the L5-S1 level.

#### **Disputed Services:**

Percutaneous discectomy at left L5-S1.

#### **Decision:**

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

#### **Rationale:**

For approval of this surgery, the clinical picture must be clear-cut and black and white. The physical examination on 11/20/03 suggested significant radicular involvement of the L4-L5 level and L5-S1 level.

These findings were not addressed by the treating doctor, who feels that the primary pathology is confined to the L5-S1 level. These findings should be noted by the treating and requesting physicians. The MRI report of the lumbar spine dated 08/19/03 notes significant disc pathology at L4-L5, as well as at L5-S1, which is described as a 3-4 mm central and left paramedian disc protrusion at L5-S1. These findings at L4-L5, L5-S1 on MRI are not in full agreement with the CT lumbar post discogram on 11/08/03. In fact, the injection details in response to the discogram injection are lacking in the records available to review.

Lacking clinical evidence that L5-S1 is the only level involved, I would agree with the findings of the reviewer of 12/22/03 that an RME should be done by a professionally trained orthopaedic surgeon or a neurologic surgeon before approval.

Looking at the other side, favoring the diagnosis of the L5-S1 role and the EMG evidence on 10/13/03, it suggests that an L5-S1 root disease involved the root, but there are also some abnormalities at S1, S2, and L4, which appear to be involved.

A nucleoplasty is indicated for a single level subligamentous contained disc bulge, and the MRI suggests what appears to be a non-contained disc protrusion. This, along with the multiple levels of involvement, suggest that the patient is questionable as to meeting the criteria for a nucleoplasty.

This case was discussed with a fellowship-trained spine surgeon and a pain management specialist.

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.

#### 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 March 24, 2004.

Sincerely,