

April 7, 2004

Re: MDR #: M2-04-0801-01-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
EMG/NCV test report
Operative and Radiology reports

Clinical History:

This is a 45-year-old female who injured her back while at work on ____. She was treated conservatively with various modalities, including facet blocks and SI joint injections. She had a medical consultation, intermittent steroid injections, and MRI times 2. A lumbar discogram was attempted, and this showed a finding of back pain and left lower extremity pain following an exhaustive treatment workup.

A discogram was not able to be done at the L5-S1 level, and the MRIs do not comment on the internal condition of the intravertebral discs. Specifically, it was noted to be unremarkable on the MRI from 03/03/03, and on 06/11/03, noted to have broad annular disc bulges at L4-L5 and L5-S1, but no specific mention was made of the internal structure of the intravertebral disc, and the MRI findings certainly appear not to be dramatic, although the films are not available for review.

Two EMGs have been done. The one on 03/04/03 was done through a transdermal approach with a question of validity. The presumed needle EMG on 07/08/03 showed an abnormal study with electrodiagnostic evidence of right L4, L5, and S1 radiculopathy and a left L5 radiculopathy

Disputed Services:

Anterior lumbar fusion with instrumentation at L5-S1

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the procedure in dispute as stated above is not medically necessary in this case.

Rationale:

This review is based on the clinical standards of the community as well as a consultation with a fellowship-trained spinal surgeon. I do not recommend massage therapy in addition to massage therapy, mechanical traction therapy, therapeutic exercises done, except those done at home because literature suggests that this type of treatment is only beneficial in the immediate post-injury phase. Therapeutic exercise at home still would be appropriate. Relative to the anterior fusion, one needs to definitively establish the L5-S1 disc as being the pain generator. This has not been done definitively to the clinical satisfaction of the reviewer. This particular individual is markedly obese with diagnosed psychiatric problems, and one must be absolutely certain as to the level because of the fact that the patient is obviously a questionable surgical candidate.

In the reviewer's opinion, the MRIs need to be re-read and some comment made on the internal structure of the disc (desiccation or not, etc.). If the internal structure of the disc is abnormal, then another attempt should be made at discography at L5-S1 (if at all feasible). If it is not possible to do a diagnostic discogram at the L5-S1 disc, then a reevaluation should be made based on these findings. Reasonable doubt exists as to the L5-S1 disc being enough of a pain generator to authorize a surgical procedure of this magnitude. There is a benefit for the patient of the diagnosis of the L5-S1 level being the source of the problems. To this reviewer, it is not proven to his satisfaction.

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,