

March 8, 2004

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TWCC Medical Dispute Resolution
MS-48
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MDR Tracking #: M2-04-0844-01-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 board certified and specialized 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

___, a 37-year-old inventory control specialist employed by ___, was restocking the furniture department on ___. When she and another individual moved an entertainment center that weighed approximately 135 pounds, she started having some sharp back pain. The description was that she squatted down. On the way up from her squatted position she twisted and rotated, causing additional pain in her lower back and she saw "stars."

She was transported to the emergency room on the day of her injury where she was noted to have lower back pain only. Her past medical history is significant for diabetes. Apparently her examination was unremarkable with no evidence of long track signs. Her x-rays demonstrate disc space loss at L5/S1 with mid thoracolumbar junction and osteoarthritic ridging.

This patient did undergo a MRI of the lumbar spine on June 6, 2003 that demonstrated L4/5 left-sided disc herniation and an L4/5 disc herniation, 4mm to midline.

On July 23, 2003 the patient underwent a neurological consultation that noted some left leg weakness with pain shooting to the upper left foot. It is noted that the patient was a heavy smoker but quit three years earlier.

On July 3, 2003 ___ had an EMG/NCV study that was indicative of chronic irritability of the left L4 nerve root.

On October 27, 2003 the patient underwent a neurosurgical evaluation because of her complaints of low back pain that radiated to the left buttocks into the left leg and heel. The examination was unremarkable. A myelogram was recommended.

The patient had a CT myelogram of the lumbar spine on November 21, 2003 that demonstrated a central disc herniation extended on L5/S1. The S1 nerve roots were not impaired. There is a broad-based 2mm disc protrusion at L4/5 affecting the filling of both L5 nerve roots, but without nerve root displacement on the CT scan. There is no central canal stenosis.

A repeat examination on November 26, 2003 demonstrated decreased sensation of pin prick and light touch to L1 distribution. Reflexes were intact in the patellae, but absent in bilateral ankle reflexes. The patient had a 1.5 cm decreased calf reduction on the left as compared to the right with subjective weakness in the plantar flexion. She had negative straight leg raises.

It is noted that on December 15, 2003 the patient underwent lumbar epidural steroid injections with no relief of her symptoms bilaterally. Her motor exam was 5/5 at that time. Reflexes were +1/4 equally and bilaterally. At that time she was recommended an L4/5 and L5/S1 discectomy and interbody fusion from ___.

REQUESTED SERVICE

Lumbar fusion at L4/5 and L5/S1 with an external bone growth stimulator and the purchase of a back brace is requested for this patient.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer makes this decision based on numerous points. It should be noted that the patient had a normal neurological examination initially and then slowly developed some subjective changes in her lower extremities several months later.

There is conflicting evidence regarding the physical examinations. Some of the more recent examinations done by independent evaluators demonstrate the patient has relatively normal exams. Secondly, the electrical myelography only reports poly-phasic waves that indicate chronic time frame, as noted by ____, two or four months before the incident at work.

As pointed out, the imaging MRI and lumbar myelogram CT scan demonstrate changes at both L4/5 and L5/S1, describing minimal neurological involvement concerning the bilateral involvements, osteophytes, lack of nerve root displacement and no description of foraminal or central stenosis. Once again, the reviewer agrees with ____ that no concordant evidence of neural compromise or structural compromise exists. In addition, it is documented that the patient had no resolution of symptoms following the lumbar ESIs. There is no evidence of spinal instability that would warrant lumbar fusion.

____ 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 8th day of March 2004.