

May 3, 2004

Re: MDR #: M2-04-0850-01-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.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. 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 the area of Orthopedic Surgery and is currently listed on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's
Carrier and treating doctor correspondence
Utilization review report 01/28/04

H&P's, office notes and reports from ___, ___, ___, ___ from 02/15/02 thru 10/03
Nerve conduction studies 07/19/02; operative report 08/18/03, 04/28/03,
02/17/03

CT lumbar spine 04/28/03, MRI lumbar spine 07/20/02, x-ray 04/26/01

Clinical History:

The patient injured his low back while at work on ___. The patient complains of low back pain and has negative straight leg raising and no neurological deficits. Electrodiagnostic studies performed on July 19, 2002 demonstrate no evidence of lumbosacral radiculopathy. An MRI done on July 20, 2002 at L4-L5 showed a 2-3 mm, broad-based, posterior central discal substance herniation. The substance contacts the thecal sac but does not indent.

Lumbar discogram performed 4/29/03 demonstrated a degenerative pattern with posterior tear, weakness, and concordant pain at L4-L5. A CT performed that same day demonstrated a posterior fissure at L4-L5 with a small contrast containing posterior central disc protrusion and associated spinal stenosis in this patient with congenital spinal canal stenosis. Discogram performed August 18, 2003 demonstrated concordant provocation at the L4-L5 disc with annular tear noted.

Disputed Services:

Transforaminal lumbar interbody fusion

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that transforaminal lumbar interbody fusion is not medically necessary in this case.

Rationale:

According to Chapman's Operative Orthopaedics, chapter 145; *Degenerative Disc Disease*; while fusion for multiple level degenerative disc disease typically fails, single level and occasionally double level fusions for degenerative disc disease may be considered if the following prerequisites have been met: pain and disability are present for 1 year; failure of progressive physical conditioning, conservative treatment of more than 4-month duration, single level degeneration on MRI with concordant pain response on discography, there is absence of psychiatric or secondary gain issues.

Most patients who have acute or chronic idiopathic or discogenic low back pain should be managed non-operatively. Patient's who have refractory pain in a severe capacity and those who have imaging confirming morphological changes and concordant symptoms may be managed successfully with anterior disc ablation and structural arthrodesis. Some improvement occurs as a result of operative treatment in about 75% of patients, but major or complete relief of pain and recovery of function was seen in 50% or left.

See Hanely, E. N., David, S. M., in *Current Concepts Review, Lumbar Arthrodesis For the Treatment of Back Pain*, The Journal of Bone and Joint Surgery, 81: 716-30 (1999). In view of the fact that this patient is a workman's comp patient and the poor results noted with arthrodesis, this procedure does not seem indicated.

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 May 3, 2004.

Sincerely,