

NOTICE OF INDEPENDENT REVIEW DETERMINATION

MDR Tracking Number: M2-04-0858-01

March 9, 2004

IRO Certificate# 5259

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgical surgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ___ or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

CLINICAL HISTORY

This is a 58-year-old female who originally injured herself on ___ while working lifting packages off of a line. She initially had a low back and left lower extremity pain. As this continued an MRI scan was performed and she was found to have a disc herniation at L4 and in April of 2002, she had a microdiscectomy and resection to that disc herniation. She had persistent low back pain, which she describes as 9/10. She subsequently had an EMG as well as a second post-operative MRI scan which demonstrated evidence of facet hypertrophy as well as possible re-herniation of the L4 disc. In June of 2003, she had a second L4 laminectomy. She also had an L3 laminectomy at that time for reasons that are not entirely clear and ultimately, had decompression of her L5 root. Subsequent to this she has continued to complain of symptoms in her left leg. It feels numb and weak, however, her low back is feeling better, now being rated a 5/10 and is intermittent. The most recent comprehensive neurologic exam on this patient was performed by ___ who is a chiropractor and apparently the treating physician. ___ finds that the patient has substantial iliopsoas weakness bilaterally and very severe quadriceps weakness on the left being graded only at anti-gravity and significant weakness in her anterior tib and gastroc soleus being at 4/5. He also found that she had nerve root tension signs. It was then recommended that she have a repeat MRI scan with contrast. It is not certain this procedure was done. ___ also recommends that the patient be evaluated by ___ for a second surgical opinion. He would be the third surgeon involved in this patient's case. The only other information on this is a CT myelogram report, which unfortunately does not copy well. However, reconstructing it appears as if there are no abnormalities at all. She has an L4 laminectomy.

It is not certain what happened to the L3 laminectomy that was performed in June of 2003.

There is a hemangioma in the body of L3 and there are no other abnormalities noted. Specifically there are no signs of bony or soft tissue encroachment of the spine or neural canals at L4 or L3. There is noted to be some facet changes, however, the articular surfaces were not enlarged.

REQUESTED SERVICE (S)

L3-S1 decompression and fusion

DECISION

The request for an L3-S1 decompression and fusion should be rejected.

RATIONALE/BASIS FOR DECISION

This is a fairly simple rejection. This patient has had a CT myelogram and no surgical pathology was identified. The only information directly from the requesting physician, ___ is a request for reconsideration. ___ states that this patient is noted to have spinal stenosis from L3 through S1 and there is reherniation of disc material at the L4 disc level. This is in direct contradiction to the radiology report of the CT myelogram. This packet does not include any clinical information from ___, so on that alone a rejection is appropriate. ___ also mentions a positive EMG to the lower extremities that demonstrates pathology from L3 through S1, which in and of itself is a clinical curiosity and not supported by the CT myelogram, which, in essence, is the gold standard for imaging of the lumbar spine. Despite this fact it is not at all appropriate for ___ to plan such a surgical procedure based solely upon an EMG. This is well outside the standards of good medical care. ___ also does not explain why a fusion procedure is necessary. The last clinical note by ___ the treating physician, states that the patient's low back pain has actually reduced. ___ does state that there is reherniation of disc material at L4, which again is in contradistinction to what the CT myelogram shows. In fact, there are specific statements that there is no neurologic embarrassment or soft tissue material at the L4-5 level. However, even if there was a third disc herniation at L4, this would only justify fusion of the L4-5 levels. The North American Spine Society's clinical practice guidelines regarding redo lumbar surgery should be reviewed. Further, recent literature with regards to two and three level lumbar fusions, their success rates or even their fusion rates should be reviewed as well. They are in a word terrible.

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 (20 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 **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3)

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), 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 this 10th day of March 2004.