

March 30, 2004

MDR Tracking #: M2-04-0922-01-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

\_\_\_ is a 60-year-old gentleman who slipped on \_\_\_ while working for \_\_\_. Incident reports state that one leg slipped out from under him and he caught his balance, wrenching his lower back. He was initially seen by \_\_\_, M.D. at \_\_\_, P.A on October 10, 2002. The diagnosis given was right-sided sciatic pain secondary to significant degenerative disc disease at L4/5 and L5/S1.

This patient's initial lumbar MRI demonstrated significant right-sided posterior paracental disc herniation at L5/S1 with degenerative changes at that level. There is right lateral recess stenosis and bilateral neural foraminal stenosis at L5/S1 and right-sided neural foraminal stenosis at L4/5, compressing the nerve root. \_\_\_ was initially treated with conservative methods to include anti-inflammatory medicines, physical therapy and rest. He was seen by \_\_\_ at \_\_\_ on March 6, 2003. It was noted that the patient most likely did need lumbar decompressive surgery but because of multiple reasons, i.e. smoking and depression, that the treatment should be postponed until the patient quit smoking and his depression was under control.

On April 3, 2003 he was seen by a psychologist and was given the diagnosis of pain disorder, major depressive disorder and chronic low back pain with right leg sciatic. He was recommended psychotherapy.

On May 12, 2003 the patient underwent a designated doctor examined by \_\_\_. It was the designated doctor's opinion that this patient had ongoing problems consistent with lumbar degenerative disc disease. He stated that the patient should continue with a non-surgical approach. If the patient had persistent pain, then the surgical options should be revisited.

In May of 2003 the patient was recommended lumbar epidural steroid injections, and it was noted that lumbar facet blocks reduced some of his symptoms.

On September 12, 2003 the patient underwent a second opinion by \_\_\_\_\_. It was his opinion that the patient had failed conservative treatment regarding his lower back pain and right-sided S1 radiculitis. A discogram was recommended, as well as flexion and extension views.

On November 21, 2003 it was noted by \_\_\_\_\_ that the patient's back pain was 50% and the leg pain was 50%. His physical examination remained unchanged. It was \_\_\_\_\_ opinion the patient has failed conservative treatment and he should strongly consider lumbar decompression and fusion.

\_\_\_\_\_ was seen by \_\_\_\_\_ at the end of November, 2003, and he noted that this patient had failed all attempts at medical management of his condition and remained symptomatic. It was \_\_\_\_\_ opinion that the patient required a decompression at L4/5 and L5/S1. Given the retrolesithesis at L4/5 and L5/S1, a simple decompression would be highly likely to fail, plus \_\_\_\_\_ recommended a fusion. It is realistically stated that a fusion would not cure all the back pain, but was necessary given the evidence of spinal instability found on the radiographs. It is also noted that this patient was a two-pack-a-day smoker and had completely stopped.

On January 6, 2004, \_\_\_\_\_ notes that the patient has quit smoking. He is still having persistent pain. Once again the plan was an anterior lumbar interbody fusion with LT cages and bone morphogenic protein, followed by a posterior decompression at L4/5 and L5/S1 with a posterolateral fusion and instrumentation with iliac crest bone grafting.

#### REQUESTED SERVICE

Lumbar decompression at L4/5 & L5/S1, anterior lumbar interbody fusion with instrumentation and iliac bone graft is requested for this patient.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

This patient sustained an aggravation of pre-existing L4/5 and L5/S1 degenerative disc disease with evidence of right-sided sciatic pain. In addition, all studies appear to indicate the patient has instability and retrolesithesis at L4/5, which has failed exhaustive non-surgical medical management and I still symptomatic.

Given the information provided, the reviewer agrees with \_\_\_\_\_ that his proposed surgery is both reasonable and necessary in this patient's care.

\_\_\_\_\_ 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 \_\_\_\_\_, Inc, dba \_\_\_\_\_, 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 30<sup>th</sup> day of March 2004.**