

MDR Tracking Number: M2-04-0954-01
IRO Certificate # 5259

April 5, 2004

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. 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 51-year-old lady who has now been having some low back pain since an injury at work on ____. At that time she was described as being in the seated position when she was hit by a forklift and pushed forward approximately three feet involving twisting of her back. She developed significant low back pain as well as predominantly right lower extremity pain. She has had a number of imaging studies including flexion/extension x-rays of her lumbar spine because, approximately 20 years ago, she had what sounds like an L5 laminectomy and attempt at fusion. Those films found her to have a spondylolisthesis at L5. Further, she has had an MRI scan at L5 which notes inflammatory changes in and around the lumbosacral disc space as well as the previously identified spondylolisthesis at L5. She has also had a CT scan which dates from October, 2002 and this was also associated with a discogram. Again, all of the studies indicate that she has some difficulties with the lumbosacral disc space. Since then she has seen a number of neurosurgeons in and around where she lives. She has seen ____, she has seen ____ and she has seen ____, all of them believing that this woman is now or very soon will become a surgical candidate secondary to intractable pain.

The difficulties that have been identified and currently the impediments to that include the patient's past history of diabetes mellitus which, over these past two years, has gone from non-insulin dependent to being insulin dependent. The other issue is that she is 5'2" and weighs 230 pounds, with a great deal of that weight being put on after her injury, according to this record.

She has been treated with physical therapy, she has been treated with a number of different types of injections into her back and none of these have alleviated her pain so that she can return to work, something that, again, according to this record, she desperately wants to do.

REQUESTED SERVICE(S)

L5 laminectomy with posterior lumbar interbody fusion with pedicle screw fixation and posterolateral fusion

DECISION

It would be appropriate to proceed with this operation in this particular patient.

RATIONALE/BASIS FOR DECISION

Although this is a slight departure from the standard of care in that this patient has remediable factors, the largest of which is her weight, the next is the fact that her diabetes is worsening. The only other issue is that she has had a previous L5-S1 fusion done more than 20 years ago. Looking at the grand picture, this is hardly relevant as no fusion has been obtained and she is noted to have significant pathology. The standard of treatment for mechanical low back pain, and this certainly seems to be ___ diagnosis, is to first attend to any remediable factors. This woman apparently has been compliant enough to attend to her physical therapy and attend to all of the various appointments, and therefore she has shown her willingness to participate in her care, and despite that she, instead of losing weight, has gained weight and has therefore converted her non-insulin dependent diabetes to insulin dependent diabetes. While both her weight and her diabetes substantially increase the risk of this fusion, there is very little else that can be offered to this woman, and as three neurosurgeons who have actually evaluated the patient all agree that this patient requires a surgical procedure for release of her pain. It is therefore appropriate to approve this. Further, it is doubtful if this patient who has been described as being motivated will be able to lose weight in her current state of being in intractable pain to the point where tears are coming to her eyes. As stated in the opening sentence of this paragraph, this is a bit of a departure from the standard of care. However, medicine is also an art as opposed to a science and to prove this the North American Spine Society, one of the more respected authorities for this situation, describes their treatment algorithm as more of a guideline than a rule.

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 6th day of April 2004.