

MDR Tracking Number: M2-04-0969-01
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 43-year-old gentleman who was injured on ____ when he was driving a company truck. He was wearing a seat belt and driving in a pickup truck when he was involved in a motor vehicle accident. He was making a left hand turn and apparently he was struck in the front of the vehicle. According to reports there was a good deal of movement with the injury. He is described as being thrown back and forth. He was taken by ambulance to a local emergency room where he was felt to have only soft tissue injuries. He then saw a local doctor with complaints of back as well as bilateral leg and hip pain. Over these past months the back pain has become predominant. He has also developed rather consistent right leg pain which his neurosurgeon feels is developing into an L5 radiculopathy based on physical exam. As far as imaging, he has had both a CT myelogram as well as an MRI scan which found fairly minimal degenerative changes. The most significant abnormality was a 2mm central disc protrusion at L5 which did not reach the thecal sac. He has also had an EMG which, surprisingly, showed a chronic L2 to S1 denervation on the right which is exceptional in and of itself. On his physical exam, his last being 2/18/04 by _____. _____ finds his motor strength at 3+/5, dorsiflexion weakness on the right and +5 quadriceps weakness on the left.

As these were new findings, ___ feels that this patient was developing a right L5 and left L4 radiculopathy by physical exam and, based on this, he states that a discogram is needed.

REQUESTED SERVICE (S)

Lumbar discogram with CT scan.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

The major reason ___ wants to do this procedure is that this patient is developing a right L5 radiculopathy by physical exam. A discogram is not going to add much information beyond what the MRI and CT myelogram have shown. In fact, a discogram will do little to sort out why this gentleman is developing a right L5 radiculopathy and apparently a left L4 radiculopathy. Further, if the discogram is being done to deal with the major problems, which is his 8/10 low back pain, it is being used as a pre-surgical test and this gentleman has not reached a point where a surgical procedure is appropriate. Of note, this gentleman is 5'8" and weighs somewhere between 250 and 268 pounds, depending upon which record is being read. Physical therapy notes were reviewed and this gentleman is predominantly getting interference therapy and no real physical activity. The first treatment for mechanical low back pain is to address all remediable factors. The obvious one in this gentleman is that he is substantially overweight. The next issue is that, during his independent medical exam, there was noted to be symptom magnification and one of the reviewers has recommended psychological evaluation prior to a discogram and any consideration for a surgical procedure. This too has yet to be addressed. Next, this gentleman has, as ___ describes, diabetes out of control with his blood sugar running 300 to 400. So, taking all of this into light in a gentleman who is described as grossly obese, who has symptom magnification and perhaps some psychological overlay, with diabetes out of control, a surgical procedure aimed at the treatment of low back pain is absolutely out of the question and therefore, obviously a discogram, which would be used to make that determination, is also inappropriate.

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 7th day of April 2004.