

NOTICE OF INDEPENDENT REVIEW DETERMINATION

MDR Tracking Number: M2-04-1005-01

March 25, 2004
IRO Certificate# 5259

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 48-year-old gentleman who injured himself on ____. At that point he was working for ____. He lifted up an object which weighed approximately 80 pounds and developed significant low back pain. His pain then progressed to around his left leg with paresthesias. His evaluation to date has included EMG which, by report, shows acute L4 and L5 radiculopathies of moderate severity. This study was performed 12/20/02 and following that study he had epidural injections as well as transforaminal blocks without any substantial improvement in the situation. On 10/15/03 he had a four level discogram which is quite concerning because at all four levels the patient had substantial pain and substantial abnormalities as well, in essence making all four levels positive for the discogram. More recently he has been seen by ___ who has recommended that he have an L4 and L5 decompressive laminectomy with what he describes as a posterial global arthrodeses with cages and posterior instrumentation. It is of note that this patient continues to smoke. He is also noted to be 5'9" and weighing 271 pounds.

REQUESTED SERVICE (S)

L4 and L5 laminectomy with fusion and instrumentation

DECISION

It would be inappropriate at this point for the patient to proceed on with this procedure.

RATIONALE/BASIS FOR DECISION

The first step for anybody with low back pain is to identify any remediable factors, the most common of which are cigarette smoking, excess weight and deconditioning. This gentleman certainly has two risk factors as far as cigarette smoking and excess weight. No real mentioning of this gentleman's overall conditioning in terms of cardiovascular or muscle mass is made. It is certainly possible that this gentleman could improve should he discontinue his cigarette smoking, but more importantly, if he improved his conditioning as well as decreased his weight, the possibility of a two level fusion making this gentleman, who has not worked in a year and four months, better is quite low, and with the specter of tobacco use and obesity.

It is of note that weight loss is going to be extremely difficult in somebody with low back pain and a limited ability to recondition himself. This exact situation would be faced in approximately six weeks after fusion. When this gentleman has already started to fuse, he would begin to have to recondition his musculature to achieve the full benefit, and it would be highly unlikely that his low back pain at that point would be substantially different than what he is experiencing now. Further, the whole basis of this is a four level discogram with all levels which prove to be positive, raises real doubt on the validity of that study. The remediable causes for this man's low back pain have not been addressed.

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 25th day of March 2004.