

May 5, 2004

Re: MDR #: M2-04-1088-01-SS
IRO Certificate No.: 5055

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to ___ for an independent review. ___ has performed an independent review of the medical records to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this care for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is Board Certified in the area of Orthopedic Surgery and is currently listed on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's
Carrier correspondence and documentation

Clinical information:

___ 09/25/03, 10/16/03, 10/30/03, 11/18/03, 01/27/04, 03/04/04

___ 11/11/03, 11/13/03

___ 12/19/02 (EMG/NCS), 08/16/02

Progress notes from unidentified source (illegible signature & no letterhead identifying the provider) 12/20, 11/25, 11/08, 10/23, 10/11, 09/27, 09/13, 08/16, 08/27, 08/30/02 and 07/15, 07/27, 08/03, 08/27, 09/17/99

Rehab documentation 09/18/02 thru 10/04/02 (no clinical info, just logging of exercises)

Discogram 01/16/04; steroid injection 11/11/03, herniorrhaphy 08/22/02 & 07/22/99

CT lumbar spine 01/16/04, MRI lumbar spine 09/19/02, 10/07/02 & 10/24/03

Lumbar spine obliques 08/19/02

Clinical History:

The patient is a 35-year-old male who injured his low back at work on ___. The patient complains of low back pain with numbness and giving out of his left leg. EMG/NCV studies performed 12/19/02 failed to demonstrate any evidence of neuropathy, radiculopathy, or myopathy. MRI dated 10/24/03 demonstrated mild to moderate subligamentous posterior central L5-S1 disc protrusion associated with mild disc desiccation of the L5-S1 disc, incipient and degenerative end point changes posteriorly.

A CT of the lumbar spine done 01/16/04 demonstrated “abnormal L5-S1 disc level with a fissure through the nucleus pulposus and through the posterior central portion of the annulus fibrosis all the way to the posterior aspect with associated central disc bulging as well”. “At the L5-S1 level, 3 cc of contrast material were accepted without end point and no significant resistance. This created considerable pain for the patient. He could not adequately describe the location of the pain. We understood the pain to be concordant pain.” The patient had only brief relief of pain from ESI. On 01/27/04 the patient was advised an anterior posterior spinal fusion at L5-S1.

Disputed Services:

Posterior lateral fusion w/instrumentation at L5-S1

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the procedure in dispute as stated above is not medically necessary in this case.

Rationale:

Single level fusions for degenerative disc disease may be considered if the following prerequisites have been met:

1. Pain and disability are present for at least 1 year.
2. There is failure of aggressive physical conditioning and conservative treatment of more than 4 months duration.
3. There is single level disc degeneration on MRI with concordant pain response on discography.
4. There is absence of psychiatric or secondary gain issues. See Chapman Operative Orthopedics, 3rd Edition, chapter 145. In addition, according to Coval, K. J., editor in Orthopaedic Knowledge, update 7, Rosemont, Illinois, American Academy of Orthopaedic Surgeons, 2002, Chapter 52, pages 627-644; “Most patients with discogenic low back pain do not require surgical treatment. Most patients with pain believed to be disc related are successfully treated with aggressive nonsurgical management including: active rehabilitation, medication, and other aspects of pain management. Surgery should be reserved as a last resort for those individuals who are highly motivated, carefully selected, preferably with 1-level disease, and without significant psychosocial magnification of their symptoms. There is no perspective randomized study indicating superior results of arthrodesis for discogenic chronic low back pain over nonsurgical treatment.”

We are simultaneously forwarding copies of this report to the payor and the Texas Workers' Compensation Commission. This decision by ___ is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this 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 ten (10) days** of your receipt of this decision (28 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 twenty (20) days** of your receipt of this decision (28 Tex. Admin. Code 148.3)

This Decision is deemed received by you **five (5) days** after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5 (d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings
Texas Workers' Compensation Commission, MS-48
7551 Metro Center Dr., Ste. 100
Austin, TX 78744-1609

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

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 May 5, 2004.

Sincerely,