

NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 22, 2004

RE: MDR Tracking #: M2-04-1114-01-SS

IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by an Orthopedic reviewer (who is board certified in Orthopedic Surgery) who has an ADL certification. The physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

Clinical History

The claimant has a history of chronic back pain allegedly related to a compensable injury that occurred on or about ___.

Requested Service(s)

Anterior spinal surgery with intervertebral device at L4-5 and L3-4

Decision

I agree with the insurance carrier that the requested intervention is not medically necessary.

Rationale/Basis for Decision

The indications for lumbar spine arthroplasty, while experimental in nature, are similar to indications for fusion. Generally, fusion is indicated in the presence of clinically documented motion segment instability. There is no documentation of isolated lumbar motion segment instability at any lumbar level. A lumbar spine series dated 2/22/02 documents degenerative disc disease noted at L5-S1. There are no flexion/extension views documenting significant instability at any motion segment level. A discogram is a pre-operative diagnostic test to help determine levels of spinal fusion. There is no indication for a discogram to determine if the injured worker has discogenic pain unless and until documentation of the level of that pain, exhaustion of conservative treatment and radiographic findings indicate fusion is under active consideration. A discogram is performed at levels where there is a suspected surgical lesion plus at least one level as a control.

Discography is a controversial test that can demonstrate anatomic abnormality in asymptomatic people and subjective response can be widely skewed, particularly with psychological issues. Peer review of a report of a lumbar discography performed on November 19, 2003 indicates pain reproduction at all levels tested. At L2-3 there was 10/10 pain reproduction with back pain and right leg pain. At L3-4 there was 10/10 reproduction of pain with back pain and left leg pain. At L4-5 there was reproduction of midline low back pain that was 7/10 on a visual analog scale. For each lumbar level tested, there was a pain response and the pain response was different at each level. The pain response, however, was described as “familiar” at each level. The study did not clearly document a consistent, concordant pain response at any motion segment level. It is not clear how fusion or arthroplasty at one or two levels can be determined by relying on the discography performed on November 19, 2003. In summary, there is no clear documentation of motion segment level instability to indicate medical necessity of fusion. There is no documentation of a clear concordant response at any lumbar level and there is no documentation of a control level where no pain response occurred. Finally, there is no documentation of exhaustion of conservative measures of treatment including, but not limited to, bracing and physical therapy emphasizing dynamic spinal stabilization (McKenzie). The documentation does not support that the requested intervention is reasonable or medically necessary in this clinical setting.

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 (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.