May 14, 2004

MDR Tracking #: M2-04-1198-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor board certified and specialized in Orthopaedic Surgery. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

This is an IRO determination on ___, who is approximately 31 years of age, employed by the ___. He submitted a Worker's Compensation claim regarding back pain, with an onset during activities of work on ___. The Orthopaedic surgeon has submitted a request for lumbar discography to evaluate the source of low back pain to determine the medical necessity of surgery. The surgery, which the physician is contemplating, was not revealed. Preauthorization requests were unsuccessful regarding the discography, resulting in this IRO review.

The rationale from the original request stated that there was no clinical rationale provided to support the request for discogram, quoting that numerous studies have shown wide variations in the sensitivity, specificity and positive predictive value of discography, particularly when patients with secondary gain/psychologic conditions (including ongoing compensation issues). He then quoted a study by Dr. Caragee from Spine 2000 showing that discogram in the otherwise compromised disc has no significant relative value in predicating pain. .

An initial office visit dated 1/22/04 stated that this patient was a 30-year-old gentleman with a date of injury of ___, who had no prior problems with his spine, when while participating in a chase he suffered a seizure. Following this he developed low back pain and was placed on light duty. He finished the Police Academy and returned to regular duties, but wearing a gun belt aggravated his back. At the end of December another treating physician took the patient off of work due to increasing back and left leg pain. Epidurals and physical therapy were not effective; an EMG was performed and considered abnormal for L5-S1 radiculopathy on the left as well as the right. The pain apparently cascaded to predominantly leg pain with a non-specific description of 'difficulty with urination.' The physical findings revealed an antalgic limp, tenderness over

the SI joint on the left with limited flexibility. It was reported decreased sensation of the S1 nerve root on the left, left ankle jerk with decrease on the left and straight leg raise was positive on the left. X-ray was described to have unilateral pseudoarthrosis on the left and reported an MRI that had a disc bulge and desiccation in the bottom two disc spaces. The impression was mechanical back pain, secondary congenital pseudoarthrosis, however, the clinic note suggested findings of radiculopathy. Recommendations included physical therapy and discography. On follow up visit the requesting surgeon reported that the patient was not improving and that bending films showed two to three millimeters of retrolisthesis which reduced on flexion. He suggested that a shot in the pseudoarthrosis (?) had alleviated some pain on a temporary basis. He again opined that discogram was needed to validate the need for surgery and again the type of surgery that was being contemplated was not revealed. A copy of the nerve testing suggested chronic L5 radiculopathy on the right, mild to moderate L5 radiculopathy on the left with an active denervation.

An MRI report dated 7/22/03 revealed desiccation of intervertebral discs at 4-5 and 5-1 with the probability of a transitional vertebrae. At 4-5 there was a disc bulge but no nerve root displacement or impingement. At 5-1 there was a disc bulge but no displacement or impingement of the nerve roots as well. Also reported was a small spinal canal due to short pedicles. He then reported that the spinal canal was within normal limits, summarizing degenerative disc disease with mild bulging at L4-5 and L5-S1. A notice to the Medical Review Division at Texas Worker's Compensation Commission states that the carrier's position regarding the request for discography was that there was a lack of sufficient and/or adequate clinical information that would support the request.

The second preauthorization request received an opinion that the lumbar spine pathology had been identified and requested discography was not clinically indicated with a value to assess surgical pathology dubious at best and the result variations of the subjectivity of response, and the ability to manipulate the disc by volume and pressure can result in a disparity.

REQUESTED SERVICE

Lumbar discography is requested for this patient.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

This patient is 30 years old; he had a manifestation of back pain after a seizure. Information regarding the seizure is unknown, but eventually this patient returned back to work full duty and had difficulties with back pain secondary to wearing his gun belt. Shortly after the claim was submitted an MRI performed showed degenerative disc changes with bulges but no nerve root impingement and clearly no source of active radiculopathy. As this patient's condition cascaded and evolved, further exams revealed evidence of radiculopathy on the left (confirmed by nerve testing and inability on straight leg raise, etc.) It is unclear the timing of the epidural injections, or trigger point injections, or facet blocks. It is also unclear what medication the patient is taking, what therapeutic exercises or intervention is being carried out. From the records submitted for

perusal it appears that there is no active treatment in regard to medication, injection, physical therapy, exercise program, etc.

The Caragee studies, the teaching of Dr. Stanley Bigos and the evidenced based medicine studies as put out by the Cochran's Collaboration all have supported scrutiny regarding the discography and lumbar fusion industry. Back surgery for back pain does not necessarily have an advantage over natural history or conservative care. Lumbar fusion is not considered necessary unless spinal instability has been discovered. Lumbar decompression for active radiculopathy is often indicated in the face of intractable pain or progressive neurologic deterioration. Independent review of the available testing has not been submitted. Information regarding a designated doctors examination, a required medical examination, independent medical examination, and/or second opinion evaluation have not been submitted. It is unclear that this patient has undergone differential injections for pain generators in regard to facet blocks, trigger point injections, foraminal blocks, etc for the progressive pain complaints.

Published articles regarding the indication for lumbar discography, such as one by Dr. Richard Guyer, support the indications in determining the source of back pain and formulating treatment options. A recent study by Dr. Caragee that was published in Spine 2002 revealed that the results of discography under controlled experiment challenge the specificity of provocative discography in identifying a clinically relevant spinal pathology.

The issue at hand in this particular case at this particular time is whether discography is medically necessary in the continued care of this patient. The two clinic notes submitted for perusal suggested that this patient is having increasing leg pain and radicular findings on nerve testing. The MRI immediately after the injury did not reveal any nerve root impingement. The extent of conservative care ongoing at this time is unknown. Active exercise is clearly shown to be a safe alternative to surgical intervention for chronic back pain, which is unknown in this patient. It is in agreement that the MRI has already identified that the two discs of abnormalities and provocation of these two discs may or may not yield pertinent information. It is stated that this patient is ready for an operation, however the type of surgery is not revealed and it is unknown to this reviewer that adequate conservative care has truly been exhausted and independently verified.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy.

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

YOUR RIGHT TO REQUEST A HEARING

Either party to 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.

I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 14th day of May 2004.