

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-04-6494.M2**

May 26, 2004

Re: Medical Dispute Resolution  
MDR #: M2-04-1210-01  
IRO Certificate No.: 5055

**TRANSMITTED VIA FAX TO:**

Texas Workers' Compensation Commission  
Attention: Rosalinda Lopez  
Medical Dispute Resolution  
Fax: (512) 804-4868

Dear

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 Spinal 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  
General correspondence, letter of medical necessity, letters of denial, required medical evaluations.

Clinical documentation: office notes, consultations, history & physical exams (01/15/02 – 03/24/04); FCE, range of motion and other evaluations (01/30/02 – 02/12/04).

Operative reports: 01/15, 01/29, 02/12, 07/03/2002 & 01/23/04.

Myelogram/CT 12/17/01, 07/03/02, 11/19/03.

Discogram 07/03/02.

**Clinical History:**

The patient was originally injured on \_\_\_\_\_. She has had a long course of non-operative treatment following which surgery was considered. Lumbar discogram was performed in July 2002, but confusion developed over the accuracy of this discogram and another discogram was recommended.

An operative report of a lumbar discogram done on July 3, 2002 reports normal discogram at L3-L4 with a questionable normal discogram at L4-L5 and an abnormal discogram at L5-S1. Following that discogram, a report of a post-discogram CT dated the same date, 7/3/02, revealed annular bulging and tears noted at L4-L5 and L5-S1.

The physician, on March 4, 2004, reviewed the patient's lumbar discogram, and reported that it was technically poor. He reports the L5-S1 disc was not even imaged, and the bottom disc was, in fact, the L4-transitional 5 disc, which they called L5-S1. This treating physician contends that their images did not go low enough to show the sacrum. A lumbar myelogram and CT dated November the 19, 2003 also notes that the L5 level on this patient is transitional.

**Disputed Services:**

Lumbar discogram w/post-discographic CT (repeat study).

**Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the procedure in dispute as stated above is medically necessary in this case.

**Rationale:**

Based on this information, it is obvious that this claimant has a transitional L5-S1 vertebra with its inherent numbering difficulties well known. Furthermore, the patient's lumbar discogram and CT were done back in July of 2002.

Based on fact that the patient's main diagnostic intervention, namely the lumbar discogram and post-discogram CT, are 2 years old and, on top of this, the fact that she has a transitional vertebra that can lead to significant confusion, a repeat lumbar discogram at L3-L4, L4-L5, and L5-S1 with post-discographic CT is medically necessary to determine what therapeutic intervention may be necessary. Great care should be taken by the surgeon performing the discogram and the radiologist evaluating the post-discogram CT to make sure they are numbering the lower lumbar vertebrae and discs appropriately.

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 26, 2004.

Sincerely,