

July 13, 2004

Re: Medical Dispute Resolution
MDR #: M2-04-1368-01
IRO #: 5055

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 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

Information provided by Requestor: office notes.

Information provided by Respondent: correspondence and designated doctor exam.

Information provided by Treating Doctor: office notes, EMG, operative and radiology reports.

Clinical History:

This is the case of a 47-year-old lady who suffered a work-related injury to her left shoulder on _____. She had great difficulty using her shoulders. She had considerable pain in the subacromial area. She had conservative treatment consisting of injections, physical therapy, and exercise, and she could not use her shoulder well at all.

She was then referred to an orthopedic surgeon, who felt that she needed to have an arthroscopy and shoulder decompression procedure. This first surgery was performed on October 16, 2000. She did not do well after this surgery. She was then referred to a second orthopedic surgeon. This surgeon evaluated her and felt that she needed a second surgery, which was done on May 31, 2001. This surgery was arthroscopic debridement with excision of the distal clavicle and further debridement with acromioplasty. After her second surgery, the patient was noted to have developed a

progressive winging of the scapula. She did not do well after this second procedure. An EMG was done, and the report states that the long thoracic nerve was functioning in a normal manner where it was tested. The EMG report does not give a report on the axillary nerve. It was not reported. The patient underwent a 3rd surgical procedure on November 19, 2001. This procedure was a repeat arthroscopic decompression of the shoulder. It did not help. She continued to have winging of the scapula and continued to be unable to use her shoulder. It was felt that a scapular stabilization procedure was indicated, and she underwent a 4th surgery on November 18, 2002. A pectoralis major transfer was done and semitendinosus gracilis grafts were used in this procedure. Unfortunately, the patient has not done well since this 4th surgical procedure.

She is still not able to use her shoulder unless the shoulder is stabilized manually. The patient was then referred to a third orthopedic surgeon. He reports that she can abduct her shoulder to 95° if the scapula is manually stabilized whereas she can only abduct it a small amount without stabilization of the scapula. The scapula is also noted to be winging. A neurologic deficit in the axillary nerve and the long thoracic nerve is suspected. Of course, the first EMG reported that the long thoracic nerve was normal, but it did not report the axillary nerve. A repeat EMG of the upper extremities and the cervical area has been requested in order to determine if there is a neurologic deficit in the long thoracic nerve, in the axillary nerve, or in the cervical spine that could be accounting for the winging of the scapula. He plans to do a scapulothoracic fusion in order to stabilize the nerve, but before doing this, he has requested the EMG study.

Disputed Services:

Bilateral/cervical upper extremity EMG/NCV.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that bilateral/cervical upper extremity EMG/NCV is medically necessary in this case.

Rationale:

The EMG and nerve conductions study are needed to rule out some type of neurologic lesion or deficit in the cervical area and in the cervicothoracic area that might account for the winging of the scapula. The surgeon would like to know the status of the axillary nerve and know if there is any other neurologic abnormality in the shoulder and upper extremity. The first EMG gave no answers. It demonstrated a normal long thoracic nerve, and the axillary nerve was not tested or reported. For completeness of workup before this scapulothoracic arthrodesis is done, this should be available to the surgeon.

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 July 13, 2004.