

NOTICE OF INDEPENDENT REVIEW DECISION

Date: July 19, 2004

RE: MDR Tracking #: M2-04-1383-01
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.

It was not possible to separate respondent and requestor documents with the materials I have to review.

Records Reviewed:

- Chiropractic records from ___
- ___
- Discogram from 2/17/04
- ___ physical therapy and PAC records
- ___ Neurosurgery
- MRI 4-18-03
- EMG, NCV
- ___
- ___

Clinical History

This is a 61 year old male who was injured on ___ with a twisting injury from hanging from grab bar on semi truck. Immediate onset of lumbar and radicular pain. Pain persists at present time. Neurologic exams have shown positive straight leg raising on left and occasionally on right. There are no consistent neurologic deficits that have been reproducible from examiner to examiner. MRI shows far lateral disc fragment at L5, There are changes consistent with lumbar

spondylosis and disc desiccation at multiple levels. EMG and NCV demonstrate normal NCV, and motor unit analysis was normal in terms of numbers and amplitude. There were some increased polyphasic units in the anterior tibialis, posterior tibialis and peroneus longus muscles. Discogram reproduced pain at L4 level. Epidural steroids and physical therapy have been ineffective.

Requested Service(s)

Endoscopic lumbar discectomy at L2, L3, L4.

Decision

I agree with the insurance carrier that above procedure is not medically necessary.

Rationale/Basis for Decision

Endoscopic disc excision is an investigational procedure. There are presently no long term results that demonstrate the efficacy of the procedure. There are no well controlled prospective studies in the literature. Endoscopy in the lumbar spine has not been researched as thoroughly as thoracic endoscopy and many investigators still have reservations about its efficacy. The procedure is generally indicated for a "contained disc." At L4, the MRI indicates a far lateral disc which would be an extruded fragment. The clinical findings on physical examination and diagnostic studies are weak regarding surgical indicators. The findings on EMG are minimal. Carragee et al have demonstrated that discography is not reliable in Worker's Compensation patients in a series of papers presented to the North American Spine Society.

References:

Minimally Invasive Spine Surgery-a Surgical Manual. Edited by H.M. Mayer. pp 247 New York,etc. Springer-Verlag, 2000 ISBN: 3-540-6536-6.

An AOA critical Issue: Less Invasive procedures in Spine Surgery. JBJS May 2003, Vol. 85-A, Number 5

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.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the patient, the requestor, the insurance carrier, and TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 19th day of July 2004.