June 16, 2004

MDR Tracking #: M2-04-1401-01
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 Orthopedic 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

___ was 38 years old and working in a restaurant as a dishwasher when she slipped and fell on ___. This injury resulted in severe low back pain with radiation down the left leg all the way to the left foot. She had some associated numbness and tingling in the leg with associated weakness in the leg. She was worked up and found to have disc herniation at L3/4 and L4/5. She subsequently underwent a series of five lumbar spine surgeries in order to try to help the low back and left leg pain. These surgeries consisted of laminectomy, decompression and eventually posterior and anterior interbody fusion of the L4/5 and L5/S1 joint. The patient had posterior instrumentation and it was surgically removed, which was the last operation, and the fusion of L4/5 and L5/S1 was found to be completely solid. The problem is that she has continued to have severe low back and left leg pain just as she had before the surgery. She had extensive conservative treatment consisting of epidural steroid injections, trigger point injections and facet injections. Also, she had a spinal cord stimulator trial that did not help.

After all conservative treatment failed to relieve her pain and after the five surgical operations, ___, her spine surgeon, has suggested that she have yet a sixth operation on her back. This surgery was apparently approved, but first ___ desired to get discograms and repeat MRI studies. He did the repeat MRI and provocative discogram after an approximate two-year wait because the studies were not approved. These studies were repeated and they demonstrated some disc bulge at L5/S1 with some foraminal narrowing at L5/S1 on the right side, however, one must realize that the pain that she is having is on the left leg and not the right leg. Therefore, the meaning of this right-sided foraminal narrowing is questionable. The MRI also demonstrated apparent solid fusion of the L3/4 and L4/5 joint.

___ then did a provocative discogram, which he felt was positive at L5/S1. He therefore recommended extending the fusion down to L5/S1. Even though the sixth operation had been approved several years earlier, the carrier then did not approve the sixth surgery.

A second opinion was obtained with ___, a board-certified neurosurgeon. This was done on March 26, 2004. He did not feel that surgery would benefit this lady. He pointed out that her pain radiation follows the L4 dermatome pain that she was having. He did not recommend surgery. Another review by ___, a spine surgeon, did not recommend surgery either. ___, a board-certified neurosurgeon, also reviewed the request for surgery and concluded that it was neither reasonable nor medically necessary to do any further surgery on this patient. ___, a board-certified orthopedic surgeon, also conducted a review and found that the sixth surgery was not indicated.

REQUESTED SERVICE

L5/S1 decompression posterior lumbar interbody fusion with cages and posterolateral fusion with plate and screw fusion are requested for this patient.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

This decision is made because of the fact that this lady has had some five previous operative procedures for low back and left leg pain and by her own estimation the pain is no better than it was when she initially injured her low back. In fact, she has stated that it feels worse than before. The case has been reviewed completely by ___, a board-certified neurosurgeon, who did not feel that surgery was indicated for her. Also, ___ and ___ were of the same opinion, as was ___. The ___ reviewer agrees with these doctors because of the fact that the L5/S1 joint cannot be demonstrated as being unstable and is probably not causing all of the symptoms.

___ 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 ___, Inc, dba ___, 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 16h day of June 2004.