

NOTICE OF INDEPENDENT REVIEW DECISION

Date: June 24, 2004

RE: MDR Tracking #: M2-04-1403-01
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.

Submitted by Requester:

- Office notes from ___ dated 2/17/04 and 3/16/04
- CT of the lumbar spine post discography by ___ dated 12/4/03
- Post myelography/CT dated 1/8/04
- Lumbar CT post discography dated 3/6/03 read by ___.
- Office note dated 3/6/03 from ___
- Office note dated 4/10/03 from ___ regarding IDET

Submitted by Respondent:

- Series of chiropractic visits from 11/21/03-3/4/04. These were mostly by ___.
- Series of case summaries from the carrier from 11/21/03-4/13/04
- Office notes from ___ dated 3/16/04
- Record of some electrodiagnostic studies dated 3/25/04
- Office notes from ___ dated 2/16/04, 12/15/03, 11/17/03
- Office note from ___ dated 1/21/04
- Note from ___ dated 12/4/03

Clinical History

The claimant is a 53 year old female who sustained a worker's compensation injury on ___. At that time she lifted a barrel weighing 24 pounds at work. She was then seen by various practitioners, as listed above. It has been requested after a number of studies that a surgical anterior L4-5 discectomy with fusion with pedicle screws and decompression be authorized and this was requested by ___.

Requested Service(s)

Anterior L4-5 discectomy with fusion with pedicle screws and decompression.

Decision

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

Rationale/Basis for Decision

This lady has had a number of studies, none of which indicate pathology that would be compatible with a fusion. It was noted on the lumbar CT's post discography on 3/6/03, post myelography on 1/8/04 and 12/4/03 that there were no large herniations or severe central canal stenosis at any levels. There was mild to moderate neuroforaminal stenosis bilaterally at L5 and minimal foraminal stenosis at L4. The anteroposterior diameter of the spinal canal was 13 mm which is certainly generous. On the lumbar myelogram performed on 1/8/04, it was noted there was some poor feeling in the right S1 root. Her other roots were symmetrical. Most of the complaints according to the clinicians were on the left side, except for one note from ___ on 1/1/04 where he notes the pain is on the right side. It is also of note that on ___ initial visit with the claimant that on 2/17/04 she had a normal neurologic examination except for some slight hip esthesia on the right lateral aspect of the leg below the knee. There are no flexion/extension lumbar x-rays in the records I have received that would indicate any instability in the lumbar spine. Also, she had electrodiagnostic studies done on 3/25/02 and these studies were normal. In revealing all of these discographies and myelogram records and CT's, there is no evidence of a significant disc herniation or significant nerve root entrapment. ___ mentions significant encroachment by the thecal sac on the left side, but neither of the radiologist's, ___ or ___, noticed this. ___, I note, is a Fellowship Trainte Neural Radiologist ___ and ___ is Fellowship Trained in Musculoskeletal Medicine. The usual indications for lumbar spine fusion or for situations where elements or certain burst fractures that can render the spine unstable. Instability is documented with flexion/extension views that show obvious translation in the lumbar spine. This also can be documented with a Grade I spondylolisthesis. Also, a Grade I spondylolisthesis with myelopathy can also be an indication for lumbar fusion. The current literature regarding degenerative conditions in the back does not support the use of multi-level lumbar fusion. This is referenced by Dr. Harry Herkowitz, the Former President of The North American Spine Society. He is also the Chairman of The Department of Orthopedic Surgery at the Beaumont Hospital in Royal Oak, Michigan. His review article published in The Journal of the American Academy of Orthopedic Surgeons, 1995; 3: 123-135. Also, the Cochrane Collaboration in a Cochrane Review of Surgery for Lumbar Discs prolefs degenerative lumbar spondylosis published in Spine, September 1, 1999 written by Alastair Gibson, M.D., Inga Grant (Master of Science) and Gordon Waddell, M.D. indicate the same conclusions. Also, of note is that carragee in prize winning papers delivered to The North American Spine Society has convincingly documented the unreliability of discography in diagnosis of sources of pain in lower back pain. This lady had discography that indicated annular tears both at L4 and L5. These findings, however, are unreliable in worker's compensation patients. Therefore, the source of this lady's pain is not readily evident and certainly surgery on people with lower back and radicular symptoms with normal neurologic exams and normal electrodiagnostic studies is very risky when the etiology of the back pain is unknown. Therefore, I would recommend against any invasive procedures in this particular patient.

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 2nd day of July 2004.