

July 13, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

MDR Tracking #: M2-04-1447-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in neurosurgery and is familiar with the condition and treatment options at issue in this appeal. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 56 year-old male who sustained a work related injury on ___. A CT of the lumbar spine performed on 9/1/98 indicated an abnormal L3-4 left nerve root, with effacement and presumed inflammatory changes of the periradicular fat, degenerative and hypertrophic changes of mild to moderated degree, and bulging annuli at the L5-S1 and L4-L5 levels. A MRI of the lumbar spine performed on 9/22/03 showed postoperative changes L3-S1, degeneration of the L2-L3 with degenerative retrolisthesis of L2 on L3, diffuse disc bulge and facet hypertrophic changes resulting in narrowing of the central spinal canal and lateral recess at this level. The patient had previously undergone a L3-S1 reexploration and decompression, instrumentation and fusion, with cages at the L5-S1 levels. The patient complained of continued back pain, and on 9/3/02 underwent a right S1 transforaminal selective epidural steroid injection and epidurogram. The diagnoses for this patient have included status post fusion L5 through S1 and continued low back pain and left lumbar radiculopathy. The patient has been recommended for a decompressive laminectomy, foraminotomy, interbody fusion with cages, posterolateral fusion and pedicle screw instrumentation at L2-3.

Requested Services

L2-3 decompressive lumbar laminectomy, foraminotomy, posterolateral fusion posterior lumbar interbody fusion with Steffee pedicle screws, Brantigan cages & Dynagraft possible L3-S1 partial explantation, and exploration of fusion.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Office notes 1/9/03 – 3/2/04
2. New Patient Evaluation 8/6/02
3. Procedure note 9/3/02
4. MRI report 9/22/03
5. CT report 9/1/98

Documents Submitted by Respondent:

1. Office notes 6/25/02 – 3/2/04
2. Operative note 12/22/00

Decision

The Carrier's denial of authorization for the requested services is upheld.

Rationale/Basis for Decision

The ___ physician reviewer noted that this case concerns a 56 year-old male who sustained a work related injury to his back on ___. The ___ physician reviewer also noted that the patient has been referred for back surgery. The ___ physician reviewer indicated that the patient has minimal stenosis noted at the L2-3 level with minimal retrolisthesis. The ___ physician reviewer noted that the patient has undergone two previous very extensive fusion surgeries with instrumentation. The ___ physician reviewer explained that there is no documentation provided that would indicate the patient benefited from these surgeries. The ___ physician reviewer also explained that there is no evidence provided that the patient has dynamic instability. The ___ physician reviewer further explained that the documentation provided did not support the medical necessity of the requested surgery. Therefore, the ___ physician consultant concluded that the requested L2-3 decompressive lumbar laminectomy, foraminotomy, posterolateral fusion posterior lumbar interbody fusion with Steffee pedicle screws, Brantigan cages & Dynagraft possible L3-S1 partial explantation, and exploration of fusion is not medically necessary to treat this patient's condition at this time.

This decision is deemed to be a TWCC Decision and Order.

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)** days of your receipt of this decision. (20 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)** days of your receipt of this decision. (28 Tex. Admin. Code 148.3)

This decision is deemed received by you 5 (five) 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/Appeals Clerk
P.O. Box 17787
Austin, TX 78744
Fax: 512-804-4011

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. (Commission Rule 133.308(t)(2))

Sincerely,

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 this 13th day of July 2004.