

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-04-8264.M2**

NOTICE OF INDEPENDENT REVIEW DECISION

Date: July 19, 2004

RE: MDR Tracking #: M2-04-1458-01
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.

The materials I have to review are not clear regarding whether they are requestor or responder.

Materials available include:

- MRI 3-10-04, lumbar spine
- Notes from ___
- Notes from ___ neurologist.
- ___ primary care
- ___ Orthopaedic Surgery
- ___ pain management.
- Physical therapy records from ___
- Lumbar Spine Xray and C-T lumbar spine
- ___ Neurosurgery.

Clinical History

This is a 66 year old female injured on ___ when she fell backward in a chair with complaint of low back pain radiating to the right thigh. Treatment with physical therapy, medication, Epidural steroids and facet blocks has failed. She complains of 90% back and 10% extremity pain.

Neurologic examinations have varied widely among examiners, it is significant that she has a history of polio at age seven and some examiners have found atrophy secondary to this, although, which lower extremity was affected is unclear on review of the notes. Her diagnostic studies indicate widespread arthritis in the lumbar spine.

Requested Service(s)

Discography L1-S1.

Decision

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

Rationale/Basis for Decision

Discography is not a reliable test to diagnose pain in Worker's Compensation patients. This has been amply documented in a series of papers delivered to the North American Spine Association by Carragee, et al at Stanford University. There is no reason to do discography because the claimant has no surgical indicators on her physical examinations nor on her diagnostic testing. Lumbar fusion is not a reliable treatment for lumbar arthritis. There has been no demonstration of lumbar instability that would indicate the need for surgery. She also has notes that indicate there is emotional instability and symptom magnification and discography is not a reliable diagnostic test in the emotionally unstable individual. The other caution is that she may have post polio syndrome and that needs to be determined before any further testing is done to avoid a disaster.

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.