

July 15, 2004

MDR Tracking #: M2-04-1508-01
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

___ is a 28-year-old licensed vocational nurse who was working at the ___ on ___ when she sustained injury to her lower back. She was helping to bathe a 40-pound quadriplegic child when she fell in the bathroom, hitting her back and injuring her left leg. Her main injury was to her lower back. She saw ___ in the emergency room and he began treating her with physical therapy and medication, and she used a TENS unit. She had pain going down both legs, worse on the left side. She was not able to return to work because there was no light duty work available. Her back pain continued. ___ ordered an MRI that was done on November 11, 2003. This MRI demonstrated a disc protrusion into the superior endplate of the third lumbar vertebra. This was at the L2/3 joint and there was no neural encroachment noted. At the L3/4 joint a focal subligamentous disc herniation was noted with some flattening of the thecal sac. There was no foraminal encroachment noted at the L3/4 level.

The patient was referred then to ___, a spine surgeon, after the conservative treatment did not help her. On 12/04/02 he saw her and suggested she try a lumbar epidural steroid injection. ___ gave her an injection on January 6, 2004. This injection did not give her any degree of lasting relief and when she saw ___ again, he suggested an EMG of her lower extremities to determine to what degree her radiculopathy was present in the legs. ___, a Neurologist, did the EMG. The right leg demonstrated mild L4/5 radiculopathy and the left leg demonstrated mild to moderate L3/4 and L4/5 radiculopathy.

Therefore, this EMG was pointing toward two levels in her lumbar spine, causing radiculopathy. ___ suggested a discogram CT scan at the L2/3, L3/4 and L4/5 levels. ___ did this discogram on March 18, 2004. However, the adjustor did not approve the CT scan, so no CT scan of the

discogram was ever done. The only thing they could do was to do the provocative discogram, which was done and pointed out that the most painful disc was at L3/4 and that there was also a concordant pain at the L4/5 level.

The patient continued to have low back and bilateral leg pain. After six months there was no improvement. She could not return to work. She was very miserable, according to the record, and she was sent for evaluation with a pain management program. ____, a psychological counselor, interviewed her. She suggested that the patient was a candidate for about six sessions of counseling regarding her chronic pain problem. This evaluation did not suggest that she was having any type of psychological problem that was causing the chronic back pain. The pain had an independent medical evaluation by ____ on April 24, 2004. He suggested the lumbar epidural steroid injections and also suggested the discograms with CT scan and IDET procedure if the above injections did not work. He pointed that the only other salvage procedure would be a fusion at the L3/4 level. However, with her having a protrusion of the disc into the body of L3 there was a worry that she would not be cured by the fusion at L3/4 because there was an obvious disc problem above that level. ____ then suggested that a coablation, decompression annuloplasty with destruction of the paravertebral nerves at the L3/4 and L4/5 levels be done. The insurance carrier denied this procedure.

REQUESTED SERVICE

Coablation, decompression, annuloplasty, destruction of paravertebral nerves and IV sedation L3/4 and L4/5 are requested for this patient.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The reason for including the L4/5 level in this procedure was the fact that the discogram produced concordant pain at that level and the EMG revealed right and left side L4/5 radiculopathy. It is true that there is a worrisome problem with disc protrusion into the body of the third vertebra at the L2/3 joint, but this may not be producing many symptoms. This disc problem could only be rectified by an anterior interbody fusion at L2/3 and this would be very major surgery on this young lady. The ____ reviewer agrees with the reasoning that the simpler procedure should be tried and carried out first before contemplating or doing a major procedure on this young person. The procedure that has been suggested by ____ has a fairly good chance of allowing this patient to avoid major back surgery.

____ 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 ____, 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 15th day of July 2004.