

August 4, 2004

MDR Tracking #: M2-04-1537-01
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 Orthopaedic 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

The patient is approximately 46 years of age, was employed for a company in which she was lifting and unloading, or loading, boxes and developed back pain on a date of injury ___. The patient had previous cervical spine surgery at C5-6 fusion in 1998. MRI of the lumbar spine at that time revealed degenerative disc disease at L2-3. The patient was managed conservatively with medication, multiple injections, including SI joint injections, epidural injections and trigger point injections. She had supervised therapy and had an FCE performed on 1/24/02 where she was determined to be able to function essential aspects of her job without difficulties. The patient has been under the care of ___, ___ and ___. Nerve testing performed on 6/28/02 revealed no evidence of radiculopathy or neuropathy. In a clinic note dated 4/5/04 it was discussed that the patient needed a discography to differentiate pain levels. On 5/3/04 it was discussed that the pain was getting worse in both legs. The last MRI performed, without contrast, was on 6/17/04 and revealed progressive changes of the lumbar spine. The L2-3 level showed narrowing of the inner space with a disc protrusion creating compression of the spinal sac. L3-4 was a normal level; L4-5 showed an annular bulge with hypertrophy of the facet joint revealing moderate to severe foraminal stenosis, the same findings reported at L5-S1. ___ reported on the last clinic note that the patient was to get a discogram or surgery by ___. The information regarding preauthorization request was not made available in this IRO review. Information regarding the myelogram/CT is not made available, nor is there information regarding recent injections. The type of surgery being considered is not being revealed, whether an arthrodesis or decompression. The requested levels do not include to L5-S1 level, which appears to be pathologic on MRI.

REQUESTED SERVICE

Lumbar discography with fluoroscopy at L2-3, L3-4, and L4-5 is requested for this patient.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The patient has multilevel disease. She appears to have a level of spinal stenosis and other levels of foraminal stenosis. Recent facet blocks or foraminal blocks were not made available. It is unclear if there is progressive radiculopathy or any signs of myelopathy, and it is unclear the surgery being recommended. A critical note submitted from ___ in July 2003 stated 'Personally I don't think that she needs it (discogram).'

The Caragee Studies suggest that the use of discography to determine pain generators have not been reproducible, and these studies have revealed a concern regarding reliability. Whereas this patient does have apparent significant disease at L2-3 that may be somewhat progressive, there are other levels involved that are skipped below, which may render a lumbar arthrodesis a questionable endeavor. Discography is not required in regard to decision making for decompression procedures, whether laminotomy, laminectomy or foraminotomies. It appears that the patient is being considered for decompression for her stenosis, however this is only speculation, for in all the surgeons notes, there is no specific treatment plan rendered.

Unfortunately, with the surgeon's comments that discogram is not needed, and the lack of evidence regarding treatment plan, it is unclear the medical necessity for the provocative discography at levels that do not include levels that also have pathology on MRI.

The opinions rendered are felt to be consistent with the Caragee Studies, and evidenced based medicine, particularly the Gibson-Waddell Report regarding lumbar surgery and is based on the assumption that the patient remains neurologically intact.

___ 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 4th day of August, 2004.