

NOTICE OF INDEPENDENT REVIEW DECISION

September 15, 2004

**Re: IRO Case # M2-04-1551-01
IRO Certificate #4599**

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery, and who has met the requirements for the TWCC Approved Doctor List or who has been granted an exception from the ADL. He or she has signed a certification statement attesting 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 referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed services
2. Denial letters
3. Carrier's summary of position 7/6/04
4. Orthopedic surgeon reports 2004
5. Consultation reports 6/8/04, 6/9/03

6. Pain management report 3/13/03, reports of injections 2003, pain management progress notes
7. Reports lumbar discography with CT scanning 6/23/03, 3/31/03

History

The patient is a 39-year-old male who in ___ slipped on ice and “did the splits.” The patient was able to catch himself before completely falling. He immediately felt severe back pain, along with pain in the thighs. He was evaluated by x-rays and examination, and sent back to work with restrictions limiting lifting under 20 pounds, and excessive bending or twisting. The patient’s pain continued despite physical therapy. Further evaluation, including an MRI of the lumbar spine in August 1999 led to a surgical procedure on the lumbar spine apparently at the L5-S1 level. Post operatively the patient had difficulty, with a spinal fluid leak, and further surgery was necessary in September 1999. The patient was sent back to work after a course of physical therapy, and he was able to work, but with continued pain. The patient has continued since then to work with restrictions on his work duties. A trial spinal cord stimulator was placed in November 2001, and because of its effectiveness, a permanent stimulator was placed in January 2002. This was not helpful, and the leads had to be replaced in June 2002. The patient’s leg has been helped by spinal cord stimulation, but his back pain continues to be significant. A 3/31/03 lumbar discographic evaluation with CT scanning showed trouble, mainly at the L5-S1 level, but only questionable concordant pain at the L4-5 level. The L1-2 level was also injected, but no surgical pathology was thought to be present. Because the L2-3 and L3-4 levels were not evaluated in March 2003, on 6/23/03 the L2-3 and L3-4 levels were injected and thought to be normal, without concordant pain.

Requested Service(s)

Low back fusion at L4, L5, S1

Decision

I agree with the carrier’s decision to deny the requested 360 degree fusion at the L4-5 and L5-S1 levels.

Rationale

Evaluation by discography is always questionable in the face of previous surgery. In this case, surgery was performed possibly at both of the proposed levels of surgery. The patient had surgery to the lumbar spine in 1997, and discographic evaluation in such a patient is a poor way to come to conclusions regarding what is needed surgically. Although there are changes at various levels in the lumbar spine on the lumbar CT scan, there is nothing that suggests instability at one joint any more than at another. The possibility of significant help from the proposed procedures is so small that to subject this patient to the various added risks of the anterior and posterior approach is not indicated.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

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.

Sincerely,

In accordance with Commission Rule 102.4 (b), I hereby certify that a copy of this Independent Review Organization (IRO) decision was sent to the carrier and the requestor or claimant via facsimile or US Postal Service from the office of the IRO on this 16th day of September 2004.