

NOTICE OF INDEPENDENT REVIEW DECISION

September 3, 2004

Re: IRO Case # M2-04-1603
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. Notes of two M.D.s
4. Medical evaluation 6/10/03
5. Report CT myelogram 4/19/04
6. Report MRIs 11/17/03, 6/20/03
7. Electrodiagnostic test report 7/21/03
8. Report lumbar x-rays 1/30/04

History

The patient is a 35-year-old male who was shoveling dirt in ___ and developed back pain. The patient was treated with physical therapy and medications without relief. He underwent a PLIF with instrumentation at L4-5 on 9/16/03. Because of continued pain, an MRI was performed on 11/17/03, and the MRI showed some question of difficulty at the L2-3 level laterally to the left side. A 4/19/04 CT

myelogram showed a possible far lateral disk rupture at L2-3 on the left side. There is nothing in the records to suggest instability at the L2-3 level, and nothing really to suggest nerve root compression at that level, despite the patient's persistent discomfort.

Requested Service(s)

Lumbar interbody fusion at L2-3 with cages and screws

Decision

I agree with the carrier's decision to deny the requested surgical procedure.

Rationale

There is no evidence of radiculopathy at the proposed level of surgery. The evidence suggests radiculopathy at lower levels that have been dealt with surgically. There is no evidence of instability on x-ray or on the patient's examination. Both the MRI and the CT myelogram suggest that if nerve root compression would be a source of the patient's trouble, a simple disk removal laterally at the L2-3 level might be beneficial. There is nothing in the records that would indicate fusion in association with that. Even regarding the relatively simple disk removal at the L2-3 level, the records do not show anything in the patient's symptoms, signs or EMG to suggest that it would be indicated. Fusion in a joint that is not adjacent to a previous fusion would, in addition to not being indicated for relief of the patient's difficulty, potentially lead to additional stresses at the joint between the two fusions, and would certainly lead to difficulty at that level also.

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 7th day of September 2004.