

November 4, 2004

David Martinez
TWCC Medical Dispute Resolution
MS-48
7551 Metro Center Drive, Suite 100
Austin, TX 78744-1609

Patient:
TWCC #:
MDR Tracking #: M2-05-0201-01
IRO #: 5251

Ziroc 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 Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc 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 Ziroc 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 Ziroc 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 proposed discography submitted for per-authorization scrutiny and was non-authorized twice, based on outcome studies as authored by Dr. C, and to stay consistent with the ACOEM guidelines. The second pre-authorization request denial also quoted the same study, and opined that discography is controversial and non-predictive regarding treatment for painful backs.

The injury claim was _____. The most recent clinic noted is dated September 29, 2004. It is suggested that the patient continued to have severe low back pain with radiating lower extremity pain, associated with weakness, and that the ongoing examinations are unchanged. The patient is requiring a significant amount of medication to control pain and to facilitate sleep, and is seeking definitive treatment to reduce the need for ongoing medication. The Attending Physician, Dr. H, who is an Anesthesiology-trained pain physician, reported that the patient continues to have spasms and facet tenderness, with painful range of motion. A clinic note from Dr. H reported that an MRI from November 2002 revealed disc disease at L4-5, and L3-4, with moderate disc spacing narrowing at L5-S1. An epidural injection was not helpful, and the exam remains non-focal. Dr. H has requested discography to help elucidate pain generators and to determine further treatment options. The patient has not worked since October 7, 2002 and continued to smoke

over two packs of cigarettes a day. There has been no discussion that smoking cessation would be beneficial, and should be part of a treatment regimen.

A myelogram and CT was performed in April 2004, which suggested a shallow disc herniation at L3-4, generalized bulges at multiple levels, and possible instability at multiple levels, but no canal stenosis. A Designated Doctor Exam was performed on 7/14/04, as the last independent review.

The medical records suggest that the patient twisted his spine, while misstepping carrying a pipe down some steps. Since the injury, there have been two courses of therapy, but has not on any active therapy over the past several months. It is revealed that the patient is not participating in an exercise program. Past history is remarkable for institutional treatment for drug rehabilitation as a child, and also had psychotherapy, regarding issues from an apparent gunshot wound and another charge for assault and battery. It is also reported to the psychologist that the wife is despondent over the patient's personality changes and memory loss. There has been concern that there has been symptom magnification, on top of discogenic pain, as a source of lumbosacral dysfunction.

The Designated Doctor Exam from 7-14-04, was a follow up evaluation from 12-8-03, who opined that the Patient was not at MMI, and that the current findings were not disease of life, but as a result of the injury. He opined that the patient had a valid claim for injury and should benefit from therapy and medication, epidurals etc. However, a spine surgeon evaluation from July 31, 2001 suggested that the patient's multilevel degenerative disease should be treated non-surgically, with physical therapy, and a conditioning program, etc. In comparison of MRI's, the report from July 27, 2001 revealed multilevel degenerative bulging without nerve root involvement and no focal disc herniation. A follow-up MRI from 11-25-02 suggested interval development of disc protrusion at L3-4 and stenosis below L3.

In addition to the records submitted for perusal, there is documentation from an attorney, representing the carrier, who recapitulated this claim, regarding the Patient's injury, and reports that the patient returned back to work ten days post-injury, and it was approximately eight months later before he presented to the Spine surgeon, regarding ongoing back pain. It was revealed that the patient had back problems in 1979 that required a 20-day hospitalization, and Dr. D, who was the spine surgeon, suggested that the findings were degenerative in nature. However, repeat studies did show some progression of disease, and then an RME with Dr. P suggested that the patient's back pain was mechanical in nature, and there were "yellow flags" regarding Wadell findings, smoking, and disability pursuits. The attorney also reported on the issues of the proposed discography, why it was not pre-authorized, and issues regarding discography in the medico-legal literature, regarding sensitivity, specificity, and predictive values. The C Studies, from Spine 2000, revealed that discography may not be relevant to where pain is, and may not have predictive value, regarding response to treatment. The attorney also reported that since the patient exhibited chronic pain behaviors, and possible symptoms magnification, that a 3-level discography would not be appropriate for further testing, particularly with studies submitted by Dr. G, and Dr. B, who suggested that discography did not offer an advantage over other imaging methods, such as MRI, and did not carry the risk of invasive testing procedures.

A peer review from November 2003 from Dr. Y suggested that the findings represented degenerative disc disease at multiple levels, and not a work injury.

The attending physician, Dr. H, has written a letter requesting authorization for provocative discography, and to be reviewed by someone of similar training; however, the determination is regarding medical necessity, and not scrutiny of technique. It is unclear from the medical records that the discography is requested from a treating spine surgeon, to determine treatment options. It does appear this Patient has significant patho-anatomy at his lumbar spine, and there is progression of disease. The issue is whether provocative discography will add information to the treatment options, and that the benefits would outweigh the risks of testing itself.

REQUESTED SERVICE

Discography of L3-4, L4-5, and L5-S1 is requested for this patient.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

This patient has multilevel disease and the disease is extended beyond the levels of requested testing. The MRI and myelogram show that the pathology at hand and also reveals progression of disease in series of testing. This patient does have psychosocial issues regarding medication dependencies, pain behaviors, and symptom magnification. It is considered a real risk that provocative discography can result in increased complaints of back pain, as a result of testing itself, and since this patient insists that his pain is worsened by an epidural injection, the concern for worsening of back pain by provocative discography should be troubling to the requestor. As suggested by Dr. B' Studies, the pathology is already revealed and understood by the MRI's and myelogram CT Scan. The risk of discography making this patient worse in his pain complaints does not appear to be outweighed by the perceived benefits of the information achieved.

This patient is not participating in an active exercise program for conditioning. The patient has not pursued smoking cessation, and has not returned to work in limited duties or modified duties within his capabilities. Further scrutiny may demonstrate that this patient may benefit from spinal surgery in the form of decompression and/ or arthrodesis; however, with the multiple levels involved, the outcome of surgery is unpredictable. It is not clear that this patient is a surgical candidate at this time, and if he is, what surgery is being considered. Discography is typically not needed to confirm the necessity for a decompressive procedure. This methodology is typically used to determine fusion levels, but with 4-level disease, the outcome is unpredictable, unless this patient has significant spinal instability, which has not been presented.

To recapitulate, in review of the medical records submitted for this IRO, it appears no question that this patient has significant patho-anatomy in his spine. The response to his injury has left him in a serious financial situation, and stress on his family life. It appears that this patient would benefit from supportive care, in regards to his pain and psychologic distress. He may also benefit from smoking cessation, an active exercise program, and further consideration for surgical management may eventually be appropriate.

However, when the G Studies and B Reports reveal that provocative discography has a risk of aggravating a pain syndrome, considering this patient who has increased pain from an epidural injection, is manifesting significant psycho-social concerns, the benefits of the proposed testing do not appear to outweigh the risk, to confirm the medical necessity at this time.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy.

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc 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,

President/CEO

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.

President/CEO

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 November, 2004.

Signature of Ziroc Representative:
Name of Ziroc Representative: