
October 28, 2004

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

MDR Tracking #: M2-05-0024-01-SS
IRO #: 5284

___ 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.

This case was reviewed by a licensed Medical Doctor who is board certified in Orthopedics. The reviewer is on the TWCC 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

This patient is a 38 year old female who injured her lower back while working on or about ___. At that time, the patient was working as a ___. She worked for that employer for one year prior to this injury. She was required in that capacity to lift up to 30 pounds. Her symptoms began as a result of repetitive lifting at work on the day in question. She noted the onset of her symptoms at that time but does not remember when she first saw a physician for these symptoms.

The medical records indicate that the patient underwent a right L4-5 lumbar decompression on 3-5-98, and a left L4-5 decompression on 8-21-00.

On 7-9-01 patient underwent an Iliac harvest, bilateral L5 foraminotomies and neurolysis with L4-5 discectomy with BAK-P cages 13 x 20 with iliac autograft and allograft. According to the Op Report of ___, the patient had prior discectomy, but continued to have severe back pain. This was felt to be due to instability with spondylosis and degenerative disk at L4-5.

CT Scan 3-10-04 states at the L4-5 level, there has been prior placement of metallic cages within the disc space. One of the cages is located in the left lateral aspect of the disc space and the other cage is located just to the right of midline and within the disc space. There appears to be solid contact of the superior and inferior margin of the cages with the disc spaces and there is some sclerosis in the adjacent vertebral body endplates which is an expected finding. No abnormal subluxation is identified. There is no evidence of hardware complication. The metallic cages do not appear to extend significantly beyond the margin of the intervertebral disc. There may be very minimal extension of the anterolateral aspect of the left cage beyond the margin of the disc; however, there is no evidence of impingement upon the spinal canal or neural foramina. Significant disc bulge or herniation is not identified and the spinal canal and neural foramina are preserved. There is evidence of prior left Laminectomy at this level and evidence of a probable parts defect as well. There is mild bilateral facet degeneration.

From the office record of ___ 7-26-04, the patient continues to have severe chronic back pain. Patient had a prior L4/5 fusion with titanium cages but she has always continued to have back pain. Her CAT scan with sagittal cuts suggests that she may not have a solid fusion. This is fairly classic with these cages and is the reason why more doctors have not used or stopped using the cages. Even though there is no movement with flexion/extension, she may not have a solid fusion.

___ office note of 8-16-04 recommends placement of pedicle screws.

Records reviewed: (1) ___ Denials of 2-24-04, 3-19-04, 3-22-04, 8-12-04, 8-13-04, 8-30-04, and 8-31-04. (2) ___ of 1-8-04 with history from 8-1-97 – 11-25-03.

(3) ___ of 1-14-03 and 11-25-03 (4) ___ of 10-27-99. (5) Medical Records ___ 7-9-01, 8-5-02, 9-10-02, 12-3-02, 2-18-03, 4-8-03, 10-20-03, 10-27-03, 11-5-03, 12-8-03, 2-25-04, 3-8-04, 3-11-04, 5-17-04, 7-26-04, 8-16-04.

(6) X-Rays 8-5-02 and 10-23-03.

(7) EMG 11-20-03 (Bilateral L4-S2 radiculopathy).

(8) CT Scan 9-11-02 and 3-10-04.

Impression is chronic pain syndrome prior interbody fusion L4-5, questionable instability with failed interbody fusion

REQUESTED SERVICE

The item in dispute is the prospective medical necessity of exploration of fusion of unstable posterior lumbar interbody fusion with instrumentation and pedicle screws.

DECISION

The reviewer disagrees with the previous adverse determination.

BASIS FOR THE DECISION

The reviewer states it would be reasonable to explore the fusion. If it is solid, that is all that needs to be done and if not, it needs to be supplemented. The reviewer's decision is based upon Waddell, G. A New Clinical Model for the Treatment of Low Back Pain, Spine 1987. Zimmer Spine 2004. Medtronic 2004. Pain Physician Volume 4 2001, Algorithm for Radicular Pain, Somatic Pain, Failed Back Patient. Campbell's Operative Orthopedics 10th Edition.

___ 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. ___ believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

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.

Sincerely,

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective *spinal surgery* decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other *prospective (preauthorization) medical necessity* disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 17787, Austin, TX 78744. The fax number is 512-804-4011. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(u)(2).

Sincerely,

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 29th day of October, 2004