

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-3171.M2

NOTICE OF INDEPENDENT REVIEW DECISION

Date: November 10, 2004

RE:

MDR Tracking #: M2-05-0245-01
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by an Orthopedic reviewer (who is board certified in orthopedic surgery) who has an ADL certification. The physician reviewer has signed a certification statement stating 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 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 this case.

Submitted by Requester:

- Pre-authorization review dated 8/19/04
- Appeal dated 8/31/04

Submitted by Respondent:

- Office notes of ___
- Clinical documentation of office visits from ___
- Clinical documents of office visits and procedure note from ___
- Consultation dated 3/22/04 by ___
- ER documentation dated 1/17/04 from ___ at ___ including plain films of the lumbar spine

Clinical History

The claimant has a history of chronic low back pain allegedly related to the compensable injury that occurred on or about ___. The claimant received chiropractic care for low back pain condition prior to referral to an orthopedic surgeon for fusion. The mechanism of injury was related to lifting a

case of apples and twisting the back while putting the case on a shelf at _____. There is no past history of back injury. The claimant exhibits a normal neurologic examination. MRI scan reportedly shows a desiccated disc and a central “herniation” at L4-5 with congenital stenosis. Lateral flexion/extension views show no instability according to a report dated 3/22/04.

Requested Service(s)

Lumbar CT/discogram at L3-4, L4-5 and L5-S1.

Decision

I agree with the insurance carrier that the requested intervention is not medically necessary.

Rationale/Basis for Decision

Generally, fusion is indicated in the presence of documented symptomatic instability at a motion segment level secondary to fracture, spondylosis or tumor. A discogram is performed at levels where there is a suspected surgical lesion plus at least one level as a control. Discography is not a primary diagnostic tool, but a confirmatory study in the presence of an established diagnosis of a significant disc condition when spinal fusion is anticipated. There is no documentation of instability at any motion segment level of the lumbar spine. A lumbar spine series performed on the date of the alleged work injury was normal. Flexion/extension views performed three months later show no evidence of instability. An MRI report indicates congenital stenosis and degenerative disc disease at L4-5 level without significant compromise of the neural structures. There are no contrast studies indicating significant neural compromise at any lumbar level. The claimant has exhibited consistently a normal neurologic examination. Generally, surgery is indicated following exhaustion of conservative measures of treatment. There is no documentation of exhaustion of conservative measures of treatment in this clinical setting including, but not limited to, oral corticosteroid medications, bracing, and physical therapy emphasizing dynamic spinal stabilization (McKenzie). The documentation does not support the medical necessity of CT/discography in this clinical setting and I strongly recommend continued conservative management.

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.

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.