

NOTICE OF INDEPENDENT REVIEW DECISION

Date: November 16, 2004

RE:

MDR Tracking #: M2-05-0275-01

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 a Chiropractic reviewer who has an ADL certification. The 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:

- 09/29/03 and 12/16/03 Clinical Notes ___
- 01/20/04, 02/19/04, 04/19/04, 07/19/04, 08/24/04 Clinical Notes ___
- 09/27/04 Reconsideration letter for EMG/NCV ___
- 01/22/01, 03/21/01, 05/16/01, 09/05/01, 01/16/02, 05/15/02, 08/13/02, 03/24/03 Clinical Notes from ___
- 05/21/99 ___-Lumbar MRI by ___

Submitted by Respondent:

- 10/25/04 Letter from ___
- 09/21/04 ___ notice of non-authorization for EMG/NCV
- 10/06/04 ___ notice of non-authorization of reconsideration for EMG/NCV
- 08/23/04 Retrospective Medical Records review by ___

Clinical History

Documentation revealed that ___ (claimant) allegedly injured his lower back, while on the job lifting boxes of copy paper on ___. Notes reported that the claimant had previously strained his lower back, while on the job on or about ___. The claimant's condition was

treated by epidural steroid injections, prescription medication, physical therapy, chiropractic care, and chronic pain management since 1999. The claimant has not returned to gainful employment since April 1999. He has been diagnosed with lumbar intervertebral disc disorder without myelopathy, spinal stenosis L3-S1, and lumbar degenerative joint disease. The claimant's condition has mostly been non-progressive as of March 2003 without significant or quantifiable neurological deficits. The claimant changed treating doctors to _____. On 09/29/2003 _____ reported the claimant was ambulatory with use of a cane and had hypoesthesia of L4 and L5 dermatomes. Straight leg raise testing was positive at 40° with decreased muscle stretch reflexes on the right as compared to the left. Subsequently the claimant was placed on as needed (PRN) care with _____ and continued chronic pain management. On 08/24/2004 _____ requested electrodiagnostic testing due to regression of the claimant's condition noting straight leg raise testing was now at 35°, increased subjective complaints of hypoesthesia, and decreased strength of the right tibialis anterior and extensor hallucis longus.

Requested Service(s)

Disputed dates of services: Outpatient NCV/EMG testing of the bilateral lower extremities.

Decision

Documentation provided for review does support the medical necessity for outpatient NCV/EMG testing of the bilateral lower extremities.

Rationale/Basis for Decision

The documentation provided for review does support the medical necessity for outpatient NCV/EMG testing of the bilateral lower extremities. I would, however, like to express that the claimant's conditions appears to be a pre-existing condition as related to degenerative spinal and foraminal stenosis of L3-S1. There are some slight indications that noted mild protrusive disc pathology of L4-L5 and L5-S1 that may be slightly compromising the claimant's already narrowed spinal canal and neuroforamina. It remains unknown if the L4-S1 disc pathologies were work related or not. Certainly the claimant's activities while on the job may have exacerbated, activated, or possibly aggravated the claimant's condition; but do not appear to be the sole cause of claimant's ongoing complaints, in my opinion. The 05/21/99 MRI report noted bilateral facet arthrosis with hypertrophy of L3-L4 and L4-L5 as related a degenerative process. At L4-L5 and L5-S1 there is disc desiccation with mild protrusion as well as some right sided L5-S1 disc lateralization. The neuroforamina of L5-S1 were widely patent and moderate facet arthrosis was again noted. This is supported by the 05/21/1999 MRI report, clinical documentation, and pages 303-315 of the Occupational Medicine Practice Guidelines-ACOEM Guidelines 2nd Edition, chapter 12. Please note that page 307 of the ACOEM guides states, "It has (spinal stenosis) a gradual onset and usually manifests as a degenerative process after age of 50. Evidence does not currently support a relationship with work. ...Some evidence suggests that patients with moderate to severe symptoms may benefit more from surgery then from conservative treatment."