Specialty Independent Review Organization, Inc.

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

**SOAH DOCKET NO. 453-05-5251.M2**

February 28, 2005

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

Patient:
TWCC #:
MDR Tracking #: M2-05-0863-01
IRO #: 5284

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

Specialty 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 Doctor of Osteopathy who is board certified in Orthopedics. The reviewer is on the TWCC ADL. The Specialty IRO 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 Specialty IRO 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 45 year old male was injured on ___ when he was removing a tire from a car and felt a sudden pain in his low back. The pain is aggravated by sitting, bending, and twisting. The physical examination on 12/15/1995 revealed left straight leg raise to 90 degrees with pain down his leg and unremarkable on the right. Sensory was intact and strength was normal.

This patient has seen numerous physicians since his injury and saw Dr. Jose Kuri, Neurosurgeon, and had an MRI on his low back that showed a herniated disc on the left at L4-5. The patient continued to be treated by Dr. Kuri and referred to Dr. Pisharodi for a second opinion on 10/24/1996. Following this exam, Dr. Kuri performed an EMG that showed a left L4 radiculopathy. The patient had surgery by Dr. Pisharodi on 01/22/1997. The surgery was a laminectomy, foraminotomy, discectomy and decompression of the nerve root on the left at L4-5, posterior interbody fusion L4-5 with bone grafting.

On 08/27/1999, Dr. Kuri reported the patient had reached his MMI and was sent to vocational rehabilitation; however, the patient refused. The patient went to work as a janitor at the school district from 1998-2000. On 11/06/2000 he was working at the Valley Baptist Medical Center as a handyman and was told to climb the stairs carrying objects and he developed severe back pain again. The physical examination on 09/30/2003 revealed straight leg raise bilaterally with pain and was able to ambulate without difficulty. According to Dr. Loyez, the patient was asked to do certain tasks and patient stated he couldn't do it. He took off his sandals and was unable to put them back on; however, a few minutes later he did so. The deep tendon reflexes are present and equal and there was decreased sensation to the L5 and S1 dermatomes on the left.

The report from Dr. Pisharodi on 05/01/2003 states the patient complains of pain that is getting worse with shooting pain down his left leg. The patient also complains of numbness and tingling on his left thigh and calf. The patient's pain is rated as 4/10 on the back and 6-7/10 on the leg.

The medical report on 10/11/2004 by Dr. Pisharodi states the patient is now 53 years of age, status post-lumbar fusion with his pain getting worse. The pain is now 9/10 and is controlled with medications. The patient has been unable to work because of the constant back pain. Any type of physical activity tends to make his pain worse.

MRI at Valley Regional Medical Center on 12/06/2004 revealed extrinsic indentation of moderate degree on the left at L4-5. This could represent scar tissue or a recurrent disc. This MRI was done without contrast.

Records Reviewed:
Letters from Forte: 1/06/2004, 1/19/2005.
Records from doctors/facility:
Medical Records – M. Pisharodi, MD 12/30/2004, 1/12/2005.
Valley Regional Medical Center – MRI, 12/06/2004.
Records from the Carrier:
M. Feigen, MD – X-ray ___.
Initial Medical Report – 11/30/1995.
L. Brotman, MD – MRI 12/19/1995.
F. Fennegan, MD – Reports: 1/23/1996, 2/06/1996, 3/05/1996.
Valley Baptist – EMG 2/05/1996 (Normal).
EMG 6/07/1996 (Normal).
X-ray Lumbar – 5/09/2002.

Federated Mutual Insurance Letter – 03/12/1996.
H. Tijerina, MD – Letters: 3/22/1996, 6/10/1996, 7/17/1996, 10/08/1996.
Physical Therapy Notes: 4/18/1996, 5/14/1996.
K. Williams, MD – Bone Scan: 5/28/1996.

J. Kuri, MD – Letters: 9/24/1996, 10/24/1996, 11/18/1996, 8/27/1997, 2/23/1998, 3/10/1998, 7/14/1998, 9/15/2000.
Columbia Valley Regional Medical Center – X-rays, 1/21/1997, 1/22/1997, 1/24/1997, 7/03/1997. MRI – 12/06/2004.
P. DeLa Vega, MD – Path Report, 1/23/1997.
T. Gonzalez, ORT Letter – 3/31/1998, 4/14/1998.
PT Health Success – FCE Date Unknown.
History and Physical – 9/04/2001
Progress Notes – 10/18/2001, 10/25/2001, 1/15/2002, 5/08/2002, 7/08/2002, 7/11/2002, 8/07/2002, 9/09/2002, 9/11/2002.
Lipid Panel Report – 7/18/2003.
J. Loyez, MD – Letter, 9/30/2003.
J. Maldonado, MD – Report 11/11/2003.
M. Pishardoi, MD – Letters: 12/19/1996, 1/22/1997 (OR Report), 4/25/1997 (7 copies), 9/03/1997 (SSEP), 9/25/1997, 5/01/2003, 9/24/2004.

## REQUESTED SERVICE

The item in dispute is the prospective medical necessity of a lumbar discogram (lower 3 levels).

## DECISION

The reviewer agrees with the previous adverse determination.

## BASIS FOR THE DECISION

This patient has seen numerous doctors since his original injury of ___. There is a void in the reporting from 1997-2003. On the most recent exam, the neurological exam was normal, the subjective symptoms of paresthesia of the left leg. The patient's MRI on 02/06/2004 shows the posterior fusion at L4-5 with an extrinsic defect on the left at L4-5. It should be noted this MRI was done without contrast and this defect may represent scar tissue or another disc. The disc spaces on the MRI at L2-3, 3-4, and 5-S1 are reported normal. It is not clear that a discogram would provide sufficient information concerning these other discs since the MRI was reported as normal. There is also nothing to suggest any lumbar instability at any level. The discography is not likely to provide any additional information related to this defect at L4-5.

References:
*Rothman – THE SPINE, 4th Edition*
*An, Howard S. – PRINCIPLES AND TECHNIQUES OF SPINE SURGERY*
*CAMPBELL'S OPERATIVE ORTHOPEDICS, 10th Edition*

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO 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 Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

## 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,

Wendy Perelli, 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 28th day of February 2005**

**Signature of Specialty IRO Representative:**
**Name of Specialty IRO Representative: Wendy Perelli**