March 7, 2005

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

Patient:
TWCC #:
MDR Tracking #: M2-05-0911-01-SS
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 39 year old male has an original date of injury of ___ and then another injury he reports where he had a flare up of symptoms on ___. He works for Eagle Pitcher as a senior inspector. He has worked there for eight years. He has had other jobs before that inspector position. The injury to the low back in ___ was diagnosed as a strain and the patient did not miss work.

The patient was injured on ___ when pushing a large heavy door on rollers that had a defective bearing and he felt pain in his low back.

This injury resulted in a PLIF with pedicle screws at L5-S1 which did not improve his symptoms. Later he underwent a discogram at L4-5 that reproduced his pain and he had an IDET again without improvement. He continues to have severe mechanical low back pain. It is a stabbing type pain and the patient rates the pain as 9/10. The pain is aggravated with sitting, standing, walking, bending, and valsalva. The pain is somewhat relieved when the patient is lying down. Patient also complains of numbness and weakness in the lower extremities. He states he cannot walk normally and when he extends his left leg too far forward, it will cause pain in his right leg. Sometimes it causes him to fall.

The physical examination reveals a decreased sensation in the legs. There is no atrophy. Straight leg raise is negative. There is no muscle spasm, but the range of motion in the lumbar spine is decreased in all directions.

The MRI at BSA Health Systems on 09/16/2004: Post laminectomy L5-S1 with posterior spinal fusion L4-5 and L5-S1 with posterior rods and pedicle screws. There is intervertebral disc fusion with intervertebral disc space device noted in L5-S1. No neural structural impingement is seen at L5-S1. At L4-5 there is a disc bulge with posterior facet hypertrophy and ligamentum flavum thickening causing mild to moderate bilateral lateral recess stenosis. Additionally, there is question raised of a small sequestered disc fragment extending from the intervertebral disc space situated posterior to the vertebral body in the left central position causing posterior deviation of the left L5 nerve root.

The fact that this patient has evidence of a left sided plantar flexion weakness, radiculitis-type pain in an L5 distribution, and no evidence of mechanical instability at L4-5 speaks more to the possibility of the L4-5 disc fragment being a potential pain generator than an actual internal disc disruption.

Records Reviewed:
Liberty Mutual Letter – 12/16/2004, 01/07/2005.
Records from Carrier: Peer Review Analysis – 01/07/2005.
L. Cesar, MD Letters – 11/24/2004, 09/16/2004, 07/29/2004.
BSA Health System, MRI – 09/16/2004.
G. Hill, MD Letter – 08/31/2004.
Records from Doctor/Facility: (Repeat of Records from Carrier)
Records of Patient: ___ Letter – No date
N. Baldwin, MD – Multiple Letters from 01/17/2002 through 11/10/2003.
Lubbock Diagnostic – MRI, 03/04/2003
FCE, 05/13/2002.
Texas Back Institute – H&P, 05/12/2004.
G. Hill, MD Letter – 04/01/2002.
TWCC – Status Report, 01/07/2002, 02/07/2002, 03,08/2002, 05/06/2002, 06/06/2002.
Merritt Chiropractic Letters: 12/14/2001 to 06/12/2002.
Office Notes: 11/06/2001 to 07/25/2002.

Convent Health System – Lab, Progress Note, X-Rays, OP Report: March 2002.
D. Hagstrom, MD – Epidural Injection, 01/03/2002.
T. Sato, DC – Letter, 01/10/2002.

REQUESTED SERVICE

The item in dispute is the prospective medical necessity of an arthrodesis lumbar, post interbody with laminectomy/otomy 1.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

The MRI of 09/16/2004 revealed at L4-5 mild to moderate bilateral recess stenosis. There is a questionable sequestrated disc fragment extending from the disc space to the left central position causing a deviation to the left L5 nerve root. The patient has a left-sided weakness radicular type pain in the L5 distribution and no evidence of mechanical instability at L4-5. For this reason, the clinical decision was to deny the arthrodesis. Also, there is no specific level noted for the proposed arthrodesis. The MRI states there is a posterior spinal fusion at L4-5 and L5-S1. Notes on the surgical procedure on 03/12/2002 stated the fusion was at L5-S1.

Campbell's Operative Orthopedics, 10th Edition.

An, Howard – PRINCIPLES AND TECHNIQUES OF SPINE SURGERY.

Rothman – THE SPINE, 4th 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 8th day of March 2005

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli