

March 23, 2005

Re: **MDR #:** M2-05-0980-01 **Injured Employee:**
 TWCC#:
 IRO Cert. #: 5055 **DOI:**
 SS#:

TRANSMITTED VIA FAX TO:

Texas Workers' Compensation Commission

Attention:

Medical Dispute Resolution

Fax: (512) 804-4868

RESPONDENT:

Liberty Mutual Fire Ins. Co. c/o Hammerman & Gainer

Attention: Dan York

(512) 494-0991

TREATING DOCTOR:

Dean Smith, M.D.

(915) 534-5220

Dear Mr. ____:

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to IRI for an independent review. IRI has performed an independent review of the medical records to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this care for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is board certified in Orthopedic Surgery and is currently listed on the TWCC Approved Doctor List.

We are simultaneously forwarding copies of this report to the payor and the Texas Workers' Compensation Commission. This decision by Independent Review, Inc. is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this 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 ten (10) days** of your receipt of this decision (28 Tex. Admin. Code 142.5©).

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 twenty (20) days** of your receipt of this decision (28 Tex. Admin. Code 148.3).

This Decision is deemed received by you **five (5) 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 Workers' Compensation Commission, MS-48
7551 Metro Center Dr., Ste. 100
Austin, TX 78744-1609

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on March 23, 2005.

Sincerely,

Gilbert Prud'homme
General Counsel

GP/thh

REVIEWER'S REPORT M2-05-0980-01

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Respondent:

Correspondence

Information provided by Treating Doctor:

Correspondence

Office notes 06/14//04 – 11/22/04

Operative report 09/27/04

Radiology reports 05/24/04

Clinical History:

Although a complete medical history was not available for review, the patient evidently has chronic low back pain with radiation to the left lower extremity from a work-related injury. Medical records submitted for review basically document multiple insurance company denials. The treating physician's, Dr. Dean Smith's, notes are very brief. Dr. Smith did write a letter of medical necessity describing this patient's positive discogram results with reproduction of the patient's low back and leg symptoms.

Disputed Services:

Outpatient lumbar IDET

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that outpatient lumbar IDET is medically necessary in this case.

Rationale:

This patient's concordant symptoms on discography give a better prognosis for treatment of this patient's lumbar disc pain with radicular symptoms. Therefore, IDET at the L4/L5 level would be a reasonable alternative to surgical management. The patient has had an epidural injection as well as extensive physical therapy and continues to have low back and leg symptoms.

Screening Criteria/Treatment Guidelines/Publications Utilized:

Although the AACOM Guidelines discuss the controversy surrounding discography as a preoperative indication for intradiscal electrothermal annuloplasty, it does describe reserving it for patient's who have had back pain for at least 3 months duration and having failed conservative treatment. This patient does classify as one of these patients and would, therefore, qualify for intradiscal electrothermal annuloplasty as an alternative to surgical management.