



Specialty Independent Review Organization, Inc.

March 16, 2005

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

Patient:  
TWCC #:  
MDR Tracking #: M2-05-1005-01-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

The 43 year old female was knocked off her feet by a large St. Bernard on \_\_\_\_\_. She landed on the concrete floor, injuring her left arm, wrist, neck, pelvis, and tailbone. The patient was seen on 04/23/2003 at the East Texas Medical Center of Athens. She had multiple x-rays performed, which included the coccyx, which was negative, and two view of the cervical spine, which indicated minor degenerative spurring. The patient states that she went to see Dr. Carter DC, who adjusted her back and performed adjustments on her neck, despite her desire not to have these performed. She reports that these neck adjustments provided significant pain. On 05/07/2003, the patient was seen by Dr. G. Peter Foux. Dr. Foux reviewed the x-ray images previously performed and found these to be normal. On that date, Dr. Foux performed a lumbar

epidural steroid injection. On 05/08/2003 an MRI scan of the lumbar spine was performed. This showed desiccation of the L4-5 disc, but was otherwise unremarkable. On 05/20/2003, the patient had another lumbar epidural steroid injection. On 05/31/2003, a cervical MRI scan was performed. This indicated a small right paracentral protrusion noted at C4-5 without canal compromise and another small central and left paracentral protrusion at C5-6. Dr. Foux performed additional x-rays on 06/11/2003, which showed degenerative changes at the C4-5 space. On 06/11/2003, Dr. Foux performed a cervical spine paravertebral nerve block. On 07/02/2003, the patient received another lumbar epidural steroid injection. She continued to have complaints of pain in both the neck and low back. A myelogram was performed on 09/11/2003. This indicated that there was a mild retrolisthesis of C4 on C5 and C5 on C6. There were spondylitic osteophytes and disc protrusions at C4-5 and C5-6.

An independent medical evaluation was performed on 11/26/2003 by Dr. Winans. It was his opinion that the patient sustained a contusion with sprain to both the lumbar and cervical spine areas. The etiology of the ongoing complaints was unclear, as there were no objective physical abnormalities on the neurological examination of the upper or lower extremities. The patient had a functional capacity evaluation on 04/22/2003 which indicated a submaximal effort. She was subsequently seen by Drs. Gill, Young, and Foux. The patient has received physical therapy that consisted of exercises and a TENS Unit.

Physical Examination on 04/30/2004 revealed cervical spine shows significantly reduced range of motion. She has a positive axial loading test. Waddell tests are grossly positive for overreaction, distraction, and rotation. During the course of the evaluation, she maintained her right arm close to her body. Examination of the right upper extremity reveals extreme pain and emotional lability as the shoulder is attempted to be passively moved through range of motion.

The progress note dated 01/25/2005 revealed the patient's pain drawing depicting pain in the posterior neck, upper back, mid-back, right shoulder, posterolateral arm to the fingertips, low back, right hip, right buttock, and posterior right leg to the toes. She rates her pain as a 7/8 on the 0/10 scale. The patient reports that the pain keeps her from working and exercising. Patient states she has to rest due to pain. Activities that increase the pain are sitting, standing, walking, working and driving. Patient does receive some relief from lying down.

Report of 02/08/2005 reveals the patient's neck pain is constant with pain radiating to the right arm and numbness in the arm with diminished feeling in the right ring, long and index fingers, and thumb. It is noted that on 01/25/2005, Dr. Wharton stated that the MRI of 05/31/2003 revealed the disc protrusion at C4-5 and C5-6 with the C4-C5 deformity involving the thecal sac and cervical cord. A cervical myelogram on 09/11/2003 revealed a small to moderate size disc protrusion and osteophyte at C4-5. A posterior defect is noted on the right with mild stenosis.

Physical examination on 02/08/2005: No paraspinal muscle spasm. There was tenderness with a jerky withdrawal from the palpating hand, which was elicited with even light palpation anywhere in the right trapezius, across the right shoulder, laterally, superiorly, anteriorly and posteriorly, and in the upper deltoid area. Cervical Range of Motion is limited in all directions because of

pain. The patient would not allow axial compression or any pressure on the head, so Spurling's test could not be tested.

The Waddell Test revealed over reaction and inappropriate throughout the examination with sharp intakes of breath and periodically grabbing of the examiner's hand while palpating the back and neck area.

Manual motor testing of the right upper extremity could not be tested well because of complaints of pain. The muscles felt strong up to the point of relaxation.

The MRI of 05/31/2003 showed a right C4-5 PNP with retrolisthesis instability at C4-5 and 5-6.

#### Records Reviewed:

Letters: Corvel, 12/07/04, 12/15/04.

Records from Patient: \_\_\_\_, 3/04/05; P. Foox, MD, 7/21/03.

Records from Carrier: S Tipton, Attorney – 3/8/05; C Finch, Attorney – 2/25/05; J Obermiller, MD – 4/30/04, 5/25/04; P Garcia, MD – 8/4/03, 9/30/03; R Winans, MD – 11/26/03, 1/5/04, 2/8/05.

Records from Doctors/Facility: Esquibel, DC – Multiple Reports 2/22/03 – 1/5/05; \_\_\_\_ (patient) – Multiple Letters: 5/1/02 – 2/17/05; Texas Imaging – 9/15/04, 1/31/05; R Potts – 4/22/03; TX Work Commission – 8/25/04, 1/20/05; D Young, MD – 2/12/04, 1/20/05; J Latson, MD – 1/25/05; G Wharton, MD – 1/25/05; TML – Multiple Reports: 9/7/04 – 1/30/05; P Warren, Attorney – Multiple Reports: 9/15/04 – 1/3/05; P Foox, MD – Multiple Reports: 5/7/03 – 4/13/04; Corvel Letter: 2/3/05; R. Gutierrez, MD – 9/11 and 9/13/03; ETML Bone Scan Normal 5/6/04. Other reports: 12/5/03, 3/26/04; Review Med – MRI, 10/28/04; K Huchton – 1/3/04; B Buck, MD – 3/4/04; J. McConnell, MD – 9/28/04; J Milani, MD – 8/12/03, 9/23/03; CARF – 9/20/04; Carrier's Interrogatories to Carrier: 9/28/04, 10/7/04; Texas Appeal Panel – No date; City of Athens – Job Description 3/98. Letters 4/8 and 4/20/04; Churchill Eval Center – 2/12/04 – 9/29/04; T McHam – 8/17/04, 9/27/04; East Texas Medical Center – 4/23/03; IDR – 12/04/03; K Gill, MD – 4/6/04, 4/27/04 and 5/7/04; ISIS – 12/23/03; SSN Search – 12/22/03 – 4/20/04; Payment Compensation – 6/2/03 - 3/26/04; R Winan, MD – 11/26/03, 1/5/04; J Sterling, MD – 5/13/04; TX Department of Insurance – 8/3/04 – 8/24/04; R Winnicki, MD – 3/13/04, 8/3/04; P Garcia MD – 9/30/03; Open MRI – 5/31/03; R Henderson MD – 7/23/04.

#### REQUESTED SERVICE

The items in dispute are the prospective medical necessity of an anterior cervical discectomy and interbody fusion at C4-5, C5-6 with Osteotech Bone and anterior plate and screws.

#### DECISION

The reviewer disagrees with the previous adverse determination.

## BASIS FOR THE DECISION

This patient's diagnosis is an HNP with arthrosis at C4-5 and 5-6. There is a concern with the Waddell Sign and the patient's smoking 1 ½ packs of cigarettes daily. A patient that has chronic pain, constant in nature since April 2003, will have marked anxiety. This patient cannot get away from her pain. According to the records, this patient has seen 20 different doctors. The patient has diagnostic evidence with the MRI and the physical examination with neck pain and paresthesia in the right arm involving the thumb, index and middle fingers and has not been relieved with physical therapy or TENS Unit since 4/23/03. The patient has other pathology relative to the lumbar spine which is not subject to this review. Having pathology at another level in the spine will add to the patient's anxiety and constant pain.

Howard S An – PRINCIPLES AND TECHNIQUES OF SPINE SURGERY.

Rothman – THE SPINE.

Campbell's Operative Orthopedics, 10<sup>th</sup> Edition.

American Society of Interventional Society of Pain Physicians, Pain Physician Volume 4, #1, 2001: p24-98.

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 17<sup>th</sup> day of March 2005**

**Signature of Specialty IRO Representative:**

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