March 28, 2005

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

Patient:
TWCC #:
MDR Tracking #: M2-05-1036-01-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 with a specialty 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 44 year old male had problems with his back and left leg since an injury that occurred on the job on ___. He works as a truck driver. He was injured when he was loading and unloading a great deal of material in a truck. Three to four hours after trying to load, he began having pain to the lower back. Three days later after he returned to Laredo, he saw Dr. Frye and had some treatments which helped, but he only had 3 sessions. He eventually saw a doctor in Atlanta who ordered therapy, and he had 3 more sessions, and was placed on Naprosyn. He then saw Dr. Pellegrin who took the patient off work and the pain was getting worse. He complains of some

burning sensation to the lower back, some pain and some weakness into the left leg. He cannot sit, stand, or walk for prolonged periods of time.

Physical Examination on 07/05/2003 revealed tenderness in the lumbar spine at L4 and L5. He had fatigue weakness in his left anterior tibialis. Patient has a strong extensor toe. There is hypesthesia over the left L5-S1 nerve. Straight leg raise is negative and Patrick Test is negative.

The MRI (06/10/2003) states that L4-L5 disc desiccation is seen with an annular disc bulge noted without focal disc herniation. Facet joint arthrosis is present with mild bilateral foraminal narrowing. But in the impressions from Dr. Remkus on this report, it is stated that the above pathology was at L5-S1.

An EMG of 07/21/2003 states there are no signs of acute or chronic motor radiculopathy of the bilateral lower extremities.

An interim report of 02/11/2004 states that the patient had a family reunion in Mexico and started having a lot of back pain to the point where he could not walk. He was reevaluated by a physician in Mexico and had another MRI. The MRI is indicative primarily of disc problems at L5-S1, but there is some question whether he had some bulging and possibly a disc abnormality above this.

Discogram of 03/05/2004 reports: L2-3 annulus tear and disk protrusion with reproduction of the pain symptoms at a low pressure. Also, at L5-S1 there was mild bulging, degeneration and no significant pain. A follow-up CT is reported as negative.

Repeat MRI of 11/04/2004: shows at L2-3 annular disk bulge flattening the thecal sac. The L5-S1 shows a right disk herniation without nerve root impingement. There is mild bilateral foraminal encroachment.

Interim report of 01/26/2005: States the patient had an IDET at L2-3 which temporarily helped, but the pain has returned. According to Dr. Dennis the patient has exhausted all forms of conservative care.

Records Reviewed:
Concentra Letters: 1/11/2005 and 2/04/2005.
Records from Doctor/Facility: M. Dennis, MD – Reports, 6/5/03 – 1/2005; Physical Medicine – EMG, 7/21/2003.
Records from Carrier: Shanley, Attorney – 3/15/05 with 4 exhibits; Report of Injury - 12/6/2002; ChoiceCare Progress Notes: 12/12 – 12/29/2002; Laredo Open MRI: 6/10/2003, 3/05/2004; Hirsch, DO: 6/29/2003; Braswell, DC: 9/8/2003; Frye, DC Reports: 9/15/2003 through 4/02/2004; MedCenter Work Service: FCE 12/23/2003; Escuela, Medico Militar: 30.ene.04; Sued, MD: 4/12/04 – 10/28/04; Comprehensive Medical Analysis: 5/16/2004;

Laredo Medical Center: 7/24/2004 IDET Procedure; Obermiller, MD: 7/29/2004; Back to Action: 9/10/2004 through 9/24/2004; FCE, 10/13/2004; Remkus, MD: MRI 11/04/2004.

REQUESTED SERVICE

The items in dispute are the prospective medical necessity of a lumbar laminectomy and fusion with instrumentation and spacer and possible cage.

DECISION

The reviewer disagrees with the previous adverse determination.

BASIS FOR THE DECISION

This 45-year-old patient was injured on ___. The injury was to his low back and the patient has been treated conservatively with physical therapy on several occasions, and Chiropractic treatments from 1-3 times a week for eight months without relief. The patient has also had an IDET at L2-3 with reoccurrence of pain. The diagnostic workup confirms the L2-3 disk bulge indenting the thecal sac. The pain is primarily in the low back. The discogram had a reproduction of the pain at L2-3. Since this patient has had this extensive conservative care for the last 2 years with no improvement, the recommendation is to proceed with the surgery as noted above.

Howard S. An, PRINCIPLES AND TECHNIQUES OF SPINE SURGERY.

Rothman, THE SPINE, 4th Edition.

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 March 2005

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli