

March 22, 2005

Re: MDR #: M2-05-1049-01-SS **Injured Employee:**
TWCC#: **DOI:**
IRO Cert. #: 5055 **SS#:**

TRANSMITTED VIA FAX TO:

Texas Workers' Compensation Commission

Attention: Rosalinda Lopez
Medical Dispute Resolution
Fax: (512) 804-4868

REQUESTOR:

Viraf Cooper, M.D.
Attention: Helen Bernal
(956) 541-2070

RESPONDENT:

Liberty Mutual Fire Ins. c/o Hammerman & Gainer
Attention: Dan York
(512) 231-0210

TREATING DOCTOR:

Robert Howell, M.D.
(956) 548-0584

Dear ___:

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 and Spine 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 22, 2005.

Sincerely,

Gilbert Prud'homme
General Counsel
GP/thh

REVIEWER'S REPORT M2-05-1049-01-SS

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's
Information provided by Requestor:

- Office notes 07/02/04 – 01/31/05
- Nerve conduction study 07/16/04
- Radiology report 08/06/04 – 10/15/04

Information provided by Respondent:

- Correspondence
- Designated doctor exam

Clinical History:

The patient is an approximately 28-year-old woman injured at work on _____. Since then, she has had some degree of back pain as well as radiating leg pains in bilateral lower extremities. She has been through extensive chiropractic therapy and other conservative measures.

Disputed Services:

Lumbar discectomy fusion and instrumentation at L4-5

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the procedures in dispute as stated above are medically necessary in this case.

Rationale:

According to all of the clinic notes provided for review, the majority of the patient's pain is out of pain in her back as well as in to the buttocks, depending on which clinic visit one reviews. She has some degree of pain into the bilateral lower extremities. Report of an MRI dated 8/6/04 does reveal a large L4/L5 disc herniation as well as a tear of the annulus at that level. EMG dated 7/16/04 was normal. The report of a discogram on 10/15/04, reveals an L3/L4 disc with no pain and no evidence of extravasation, an L5/S1 disc with no pain or deformity, and an L4/L5 disc with posterior extravasation, as well as discography reporting that the patient experienced pain similar to the disc disease. Post-discogram CT revealed a disc herniation at the L4/L5 level with possible L5/S1 subligamentous early disc herniation and a normal L3/L4 disc.

Based on these findings in a patient with majority back pain, a large disc herniation with a normal EMG, and a disc that has been demonstrated to reproduce her pain, as well as having an annular tear on the discogram as well as the MRI, a discectomy and fusion of the L4/L5 disc does seem reasonable and medically necessary.