

April 4, 2005

Re: **MDR #:** M2-05-1140-01 **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:

TML Intergovernmental Risk Pool
Attention: Annette Moffett
(512) 867-1733

TREATING DOCTORS:

T. J. Mundheim, D.C.
(806) 748-6110

Karl W. Swqann, M.D.
(210) 949-0171

Flaude Michel Oliva, M.D.
(806) 791-3378

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 April 4, 2005.

Sincerely,

Gilbert Prud'homme
General Counsel

REVIEWER'S REPORT M2-05-1140-01

Information Provided for Review:

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

Correspondence
Designated doctor reviews

Information provided by Neurosurgeon:
Office notes 10/07/03 – 12/08/04
Radiology reports 05/13/03 – 11/12/04
Information provided by Pain Management:
Office notes 09/29/03 – 11/30/04
Operative report 12/08/03
Information provided by Chiropractor:
Office notes 05/02/03 – 10/20/04
Nerve conduction study 10/20/04
Information provided by Orthopedic Surgeon:
Office visit 08/07/03

Clinical History:

The claimant is a 33-year-old male who suffered a work-related injury to his neck, as well as cervical and lumbar spine. He was treated extensively with chiropractics as well as pain management and epidural injections. The patient underwent C5/C6, C6/C7 anterior cervical discectomy and fusion by Dr. Baldwin because of persistent symptoms in his neck. He also had cervical epidural injections. The patient was treated for chronic pain management with OxyContin. He was found to have disc space narrowing at L5/S1 and retrolisthesis at that level. He also had broad-based central protrusion at L4/L5 indenting the thecal sac causing right subarticular recess stenosis of the right L5 nerve root. There is also desiccation of the disc at L4/L5 and L5/S1 noted.

Of note, the patient's date of injury was ___ and his previous surgery for cervical discectomy and fusion from C5 to C7 was in ___ from a previous on-the-job injury.

On 6/17/04, the patient underwent exploration of his cervical fusion and extension of the fusion to C4/C5 due to excessive radiculopathy. After the last neurosurgery appointment on 12/8/04, the patient was taking significant amounts of OxyContin, 80 mg BID with 5 mg tablets for breakthrough pain. He was also taking Soma and Neurontin. At that point, he was requesting lumbar surgery as well.

Disputed Services:

L4-S1 laminectomy decompression, fusion, posterior lateral fusion; posterior lumbar interbody fusion w/steffe plates, pedicle screws; brantigan cages w/autograft and 3-day length of stay.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that procedures, equipment and LOS described above is not medically necessary in this case.

Rationale:

This patient is certainly not a very good surgical candidate for a lumbar interbody fusion. He is a heavy smoker, has a significant narcotic dependence, and demonstrates neuro-behavioral traits that would significantly and adversely affect the outcome of the lumbar interbody fusion. All of these psychological issues and opiate dependence need to be addressed prior to surgery. Therefore, based on these significant preoperative factors, I would not recommend surgical management.

The American Academy of Orthopedic Surgeons has an orthopedic knowledge update for the spine that has specific clear cut indications for surgical treatment of lumbar discogenic pain and instability. Absolute contraindication for spinal surgery is the presence of major influence of psycho-behavioral factors and symptom magnification, which the patient does demonstrate. In addition, a relative contraindication is the fact that he is a heavy smoker. Finally, the narcotic dependence that he currently has would greatly interfere with his long-term success of this procedure.