



Specialty Independent Review Organization, Inc.

May 17, 2005

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

Patient:
TWCC #:
MDR Tracking #: M2-05-1600-01
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 patient is a 39 year old male injured on _____. The patient was driving a company truck and was involved in an MVA causing the truck to turn over on its side. On 05/30/2003 a CT scan of the cervical spine revealed small PNP at C3-4, 4-5, and 5-6. The patient has received treatment from Dr. Julio Fajardo, Chiropractor. The clinical notes reveal the patient to have constant neck and low back pain associated with headaches. The CT scan on 05/30/2003 of the lumbar spine revealed minimal disc bulging from L2-S1. The EMG test on 08/11/2003 revealed slight changes at the C5 nerve root. The EMG of the lower extremities revealed no evidence of acute or ongoing lumbar radiculopathy. The patient has been treated with facet injections that have given short term relief. Examination of the low back on 09/08/03 revealed the lumbar range of motion unrestricted, deep tendon reflexes were present and equal, straight leg raise negative, and no area of hypoesthesia.

The patient has had three epidural steroid injections that temporarily stabilized the low back pain. The physical examination on 03/11/2004 reveals the range of motion of the lumbar spine slightly restricted, tenderness in the lumbar spine, straight leg raise to 90 degrees in the sitting position and 50 degrees in the supine position. Waddell's test is positive for axial loading, rotation, straight leg raising, and subjective complaints out of proportion to objective findings.

The discogram of 11/18/2004 reveals an annular tear with bulge at L2-3 and an annular tear at L5-S1.

Records Reviewed:

Forte Letters: 3/22 and 4/12/2005.

Records/Doctors/ Facility:

J Fajardo DC Letter: 4/28/03.

J Sazy MD Letters: 1/20/04, 1/17/05.

Medical Center, CT, Discogram: 11/18/04.

Records from Carrier:

D Martinez MD, CT Cervical: 5/30/03.

F Batlle MD, Letter: 9/8/03.

C Pratt DO, Letter: 9/17/03.

J Sazy MD Letter: 1/20/04.

K Erwin MD Letter: 3/11/04.

V Aggarwal MD Letter: 3/22/04 and 3/11/05.

J Fajardo DC Letter: 4/28/03 and 9/5/03.

Ziroc Letter: 10/28/04.

Forte Letter: 2/1/05, 3/15/05, 3/17/05.

REQUESTED SERVICE

The item in dispute is the prospective medical necessity of an inpatient transforaminal lateral interbody fusion at the L5-S1 level with a 5 day los.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

This 39 year old male was injured on _____. The CT scan of 05/30/2003 revealed a bulge at L5-S1 with no neurocompression. There is no evidence of radicular pain into the lower extremities. The discogram revealed an annular tear at L5-S1 but no spinal or foraminal stenosis. The Waddell's Sign is markedly positive. There is no documentation revealing clear evidence of a surgical lesion. The subjective findings far outweigh the objective findings.

The patient has had back pain for at least 3 months duration, has failed conservative treatment, and is a possible candidate for surgery; however, the psychosocial assessment with the Waddell's Sign being positive presents a red flag. The patient is not a candidate for surgery according to ACOEM Guidelines.

ACOEM Guidelines, 2nd Edition, Chapter 12, p 303-305.

Rothman & Simeon: THE SPINE, 4th Edition.

Campbell's Operative Orthopedics, 10th Edition.

Stude, David: SPINAL REHABILITATION.

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 17th day of May 2005

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli