

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 July 11, 2005.

Sincerely,

Gilbert Prud'homme
General Counsel

GP/th

REVIEWER'S REPORT M2-05-1956-01

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

From Requestor:

Office notes 12/21/01 – 05/20/05

Radiology reports 04/21/03 – 05/21/04

From Respondent:

Correspondence

Designated doctor review

Clinical History:

This male claimant sustained a work-related injury on ____, which has resulted in a chronic low back pain condition with radiation to the legs. He has undergone a discogram study followed by CT scan in April 2003 as well as MRI scan of the lumbar spine done in May 2004 that is interpreted as showing a disc herniation at L5/S1 along with some facet joint arthropathy. This

claimant has also undergone epidural steroid injections in the lumbar spine along with medication trials. Subsequently, the claimant also underwent a facet joint block on the right. The discogram study was reportedly positive at the L5/S1 level, which led to an IDET procedure performed at that level on 05/19/03. Immediately after this procedure, the claimant indicated that the pain was "much better." This led to some relief of his ongoing pain. Therefore, a radiofrequency ablation of the bilateral lumbar facet joints/medial branch nerves was recommended on the right side. This was performed on 08/11/04 with the claimant reporting that this completely relieved his pain for a temporary amount of time. On his last few office visits including dates of service 05/20/05, 02/15/05, and 10/29/04, which are all the documented visits after the lumbar radiofrequency ablation, the claimant reports pain levels between 2/10 and 3/10, with 10 being "unbearable pain." Nonetheless, in the office visit dated 05/20/05, a recommendation is made by the pain physician for a lumbar nucleoplasty procedure at the L5/S1 disc level. This is despite documentation in the same note indicating that the claimant is complaining of a level 2/10 pain, is complaining of "minimal discomfort" in the lower back and buttock, and is apparently taking some medications that are also helping with ongoing pain relief including Mobic and Ultracet.

Disputed Services:

Lumbar nucleoplasty @ L5-S1

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the procedure in dispute is not medically necessary in this case.

Rationale:

From the documentation provided by the requesting physician, there is no clear rationalization for the requested service. It appears that the claimant at this time is complaining of only minimal ongoing pain. There is no specific presentation outlined by the physician to suggest that any ongoing pain is isolated to the L5/S1 disc or that it is a primary discogenic pain syndrome. In fact, the rationalization for any procedure that has been suggested by this physician all uses the same set of sentences, which, in my opinion, diminishes the confidence that we place on his rationalization. The request for the lumbar nucleoplasty at L5/S1 specifically appears to "come out of nowhere," as the rest of the office note for that visit does not seem to implicate any ongoing significant symptomatology reported by the claimant to warrant another invasive procedure.