

Parker Healthcare Management Organization, Inc.

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Certificate # 5301

June 13, 2005

ATTN: Program Administrator
Texas Workers Compensation Commission
Medical Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100
Austin, TX 78744
Delivered by fax: 512.804.4868

Notice of Determination

MDR TRACKING NUMBER: M2-05-1461-01
RE: Independent review for ____

The independent review for the patient named above has been completed.

- Parker Healthcare Management received notification of independent review on 4.29.05.
- Faxed request for provider records made on 5.2.05.
- TWCC order for payment was issued 5.12.05.
- The case was assigned to a reviewer on 5.25.05.
- The reviewer rendered a determination on 6.9.05.
- The Notice of Determination was sent on 6.13.05.

The findings of the independent review are as follows:

Questions for Review

Medical necessity of the proposed spine surgery (inpatient stay for 5-7 days) for anterior fusion of L4-L5, posterior fusion L4-S1 and L4-L5 decompression

Determination

PHMO, Inc. has performed an independent review of the proposed care to determine if the adverse determination was appropriate. After review of all medical records received from both parties involved, the PHMO, Inc. physician reviewer has determined to **overturn the denial**.

Summary of Clinical History

Mr. ____ has undergone prior lumbar surgery at L5-S1 in the mid 1990's. He additionally had a laminectomy at L4-L5 levels on August 12, 2002, this pre-dating his present injury by approximately one year. On _____, he sustained a new injury to his back while lifting at work.

Clinical Rationale

Mr. ___ has had multiple attempts at various types of conservative care and achieved no significant improvement. Specifically, he underwent a nerve conduction velocity myelographic study revealing L4-L5 as well as S1 radiculopathy. Subsequently to his injury, he underwent additional laminectomy and discectomy on approximately September 22, 2003. Further conservative care up to and including placement of a spinal cord stimulator as well as intense postoperative rehabilitation has failed to improve his symptoms.

He underwent numerous physical examinations at the hands of numerous physicians. As a majority, they showed various sensory and motor deficits in dermatomes ranging from L3-S1 bilaterally, but more notable on the right. They also all seem to note a type of tremor or involuntary muscle spasm in the lower extremities. Multiple objective studies were performed, including a myelogram on December 27, 2004, by River Oaks Imaging and Diagnostic. The impression showed moderate ventral epidural defect at 4-5 with no central stenosis or suggestion of arachnoiditis, no nerve root underfilling was seen. Epidural stimulator wires were seen entering the canal at L1 with no significant mass effect. A small degree of retrolisthesis of 3 and 4 above the prior surgery was noted, this being approximately 4 mm in addition to middle anterolisthesis of 2 mm of 4 and 5 and degenerative disc changes. A bilateral laminotomy defect is seen at L4-L5 with pseudo bulging and additional epidural fibrosis/post laminotomy bulging of the annulus without mass effect or focality to suggest recurrent protrusion. Evidence of prior posterior decompressive procedure was seen at L5-S1. A Woodstead MRI study dated November 10, 2003, indicates posterior decompression with right laminotomy at L4-L5. No recurrent disc herniation was seen. However, there is a broad, lateral bulge/protrusion on the right. A note was again made of prior right laminotomy at L5-S1. This study suggests mild arachnoiditis at L4-L5 and L5-S1.

A CT dated August 25, 2003 showed midline and right sided disc herniation at L4-L5 with disc material noted in the right neural foramen and degeneration of the disc also noted as prior right laminectomy at L5-S1 with the disc being degenerative, yet no evidence of disc herniation at that level.

An EMG on March 31, 2004 done by Dr. Benjamin Agana, indicates chronic L4-L5 bilateral radiculopathy. Mild bilateral S1 radiculopathy, which appears to be acute. This patient underwent discographic studies on August 25, 2003, showing distinct radiographic abnormality at L4-L5 with concordant pain reproduction. The significant radiographic abnormality was also seen at 51 and minimally so at 3-4, with non-concordant pain at these levels.

Dr. Steven Esses in his consultation of July 15, 2004, felt that while the patient may be a candidate for L4-L5 fusion, he was concerned about the spastic colonic movement disorder, which had been noted by multiple additional physicians. He felt that this could conceivably affect the safety or overall efficacy of surgical intervention, and if possible, should be diagnosed and specifically treated.

While I do agree with Dr. Esses regarding the fact that any inexplicable movement disorder should be diagnosed preoperatively, I do not feel that this negates the definitive objective pathology as seen on multiple studies. Not only does the patient continue to note severe subjective pain, but studies ranging from myelograms to discograms to CAT scans to MRIs to EMGs also verify the definitive pathology at L4-L5 and moderate pathology at L5-S1. It is clear that this patient has not responded either to conservative means or to one smaller operation (laminotomy-discectomy.)

My own suggestion, were he my patient, may be a 2 level anterior and posterior effusion with neural decompression, I do not disagree with the plan which is offered here. This would be a single level anterior fusion with a two level posterior fusion as well as neural decompression. I feel that the evidence is strongly in this patient's favor and that the URA denial should definitely be overturned.

Clinical Criteria, Utilization Guidelines or other material referenced

This conclusion is supported by the reviewers' clinical experience with over 15 years of patient care and orthopedic surgery.

The reviewer for this case is a Medical Doctor licensed by the Texas State Board of Medical Examiners. The reviewer is a diplomate of the American Board of Orthopedic Surgery, and is engaged in the full time practice of medicine.

The review was performed in accordance with Texas Insurance Code §21.58C and the rules of the Texas Workers Compensation Commission. In accordance with the act and the rules, the review is listed on the TWCC's list of approved providers, or has a temporary exemption. The review includes the determination and the clinical rationale to support the determination. Specific utilization review criteria or other treatment guidelines used in this review are referenced.

The reviewer signed a certification attesting that no known conflicts-of-interest exist between the reviewer and any of the providers or other parties associated with this case. The reviewer also attests that the review was performed without any bias for or against the patient, carrier, or other parties associated with this case.

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. Per rule 133.308 (v) (1), written appeal for spinal surgery prospective disputes must be appealed in writing within 10 days after receipt of the IRO decision. This Decision is deemed received by you 5 (five) days after it was mailed and the first working day after the date this Decision was placed in the carrier representative's box (28 Tex. Admin. Code § 102.5 (d)). A request for hearing should be sent to: Chief Clerk of Proceeding/Appeals Clerk, P. O. Box 17787, Austin, Texas 78744 or faxed to (512) 804-4011. A copy of this Decision should be attached to the request.

The party appealing the Division's Decision shall deliver a copy of this written request for a hearing to the opposing party involved in the dispute.

I hereby verify that a copy of this Findings and Decision was faxed to TWCC, Medical Dispute Resolution department, the requestor (if different from the patient) and the respondent. I hereby verify that a copy of this Findings and Decision was mailed to the injured worker applicable to Commission Rule 102.5 this 13th day of June, 2005. Per Commission Rule 102.5(d), the date received is deemed to be 5 (five) days from the date mailed and the first working day after the date this Decision was placed in the carrier representative's box.

Meredith Thomas
Administrator
Parker Healthcare Management Organization, Inc.

CC:

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Travelers Indemnity
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