

NOTICE OF INDEPENDENT REVIEW DECISION

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November 11, 2005

Requestor

Kenneth G. Berliner, MD
ATTN: Brenda Gonzalez
15769 North Freeway
Houston, TX 77090

Respondent

North American Specialty Insurance Co.
ATTN: Diana Castro
P.O. Box 819045
Dallas, TX 75381

RE: Claim #: _____
Injured Worker: _____
MDR Tracking #: M2-06-0176-01
IRO Certificate #: IRO4326

TMF Health Quality Institute (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Division of Workers' Compensation (DWC) has assigned the above referenced case to TMF for independent review in accordance with DWC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a TMF physician reviewer who is board certified in Orthopedic Surgery, by the American Board of Orthopaedic Surgery, Inc., licensed by the Texas State Board of Medical Examiners (TSBME) in 1964, and who provides health care to injured workers. This is the same specialty as the treating physician. The TMF physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and the provider, the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient sustained a work related injury on ___ which resulted in injury to his back. He has been treated with medications, surgery, and epidural steroid injections.

Requested Service(s)

Lumbar facet joint block right and left of L2-S1

Decision

It is determined that lumbar facet joint block right and left of L2-S1 is not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

Lumbar facet block L2-S1 is not medically necessary on any evidence-based medical concept. The most recent literature indicates that in September 2005, Volume 20, Number 9 "The Back Letter," page 1 indicates that, "the injection of steroids and local anesthetics into the facet joints has passed in and out of fashion as a treatment for low back pain over the past 30 years...The evidence supporting their therapeutic benefit remains paltry." "Australian research indicates that physicians should stop doing them", (Bogduk 2005). There is no solid physiologic rationale for these injections. There is no support in randomized control studies and only limited support in observational studies. There is a significant gap in the scientific evidence regarding the injection of steroids into the facet joint. An excellent review is contained in "Pain Medicine," 2005; 6:287-96.

This decision by the IRO is deemed to be a DWC decision and order.

YOUR RIGHT TO APPEAL

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code § 413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for hearing and a **copy of this decision** must be sent to: Chief Clerk of Proceedings/Appeals Clerk, Texas Department of Insurance, Division of Workers' Compensation, P.O. Box 17787, Austin, Texas, 78744, Fax: 512-804-4011.

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The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in this dispute.

Sincerely,



Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:dm
Attachment

cc: _____, Injured Worker
Program Administrator, Medical Review Division, DWC

In accordance with Commission Rule 102.4 (h), 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 this 11th day of November 2005.

Signature of IRO Employee:

Printed Name of IRO Employee:

Information Submitted to TMF for Review

Patient Name: ____

Tracking #: M2-06-0176-01

Information Submitted by Requestor:

- Operative reports
- Letter for Dr. Berliner
- CT of lumbar spine report
- Letter of medical necessity
- Physical findings summary
- X-ray reports
- ER record
- Lumbar discogram report
- Procedure report
- H&P
- Office notes
- Consultation notes
- Report of medial evaluation
- Impairment rating report
- Reviews of medical history and physical exams
- Reevaluation notes
- Initial evaluation

Information Submitted by Respondent:

- Operative reports
- CT scan reports
- Denial letter
- Report of discogram
- Procedure report
- Post discogram CT scan
- X-ray reports
- H&P
- Office notes