

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-0735-01
Name of Patient:	
Name of URA/Payer:	Ace American Insurance
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Jacob Rosenstein, MD

March 9, 2006

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on the Division of Workers' Compensation Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

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Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Jacob Rosenstein, MD
Division of Workers' Compensation

CLINICAL HISTORY

Records submitted for review:

1. Notification of IRO assignment.
2. North Texas Neurosurgery Consultants, Dr. Jacob Rubenstein's office notes from 6/9/04 through 1/18/06.
3. DNI cervical and lumbar myelogram dated 11/19/05 as well as CT and cervical spine films dated 6/14/05.
4. Steve Callahan's Clinical Rehab and Psychology dated 9/30/04 through 2/15/06.
5. High Point Rehab Institute, this includes both the pain management evaluations as well as the physical therapy evaluations through 1/24/06. Office notes of the Spine Institute of Louisiana by Chris Howard dictating for the orthopedic spine surgeon, Pierce D. Nunley dated 12/6/04 though 1/6/05.

This is a then 50-year-old gentleman who had a work related injury on _____. On that day he was tightening a strap on his trailer to secure a load. One of the straps came loose and he fell backwards striking his low back and he developed low back pain. This was reported to a company physician in Fort Worth. An MRI scan was obtained and he was found to have only mild disc bulging. He was referred to Jacob Rosenstein on 6/29/04. At that point, Dr. Rosenstein felt that the patient had a right lumbar radiculopathy and a possible L5 disc protrusion. From this point forward the patient is treated with non-steroidal anti inflammatory agents as well as a Medrol Dose Pak. He had an EMG was within normal limits; specifically no evidence of a lumbar radiculopathy. He was noted to have an abnormal nerve conduction study; however that was slightly indicative of entrapment of his tibial nerves in his distal leg. Dr. Rosenstein recommended

lumbar trigger points after essentially reviewing a negative CT of his lumbar spine. The patient had trigger point injections and then physical therapy. He was allowed to return to light duty and then ultimately had facet joint injections. Throughout all of this he was being seen at High Point Pain Management as well as physical therapy. The injections were performed by Dr. Shelley Rosenbloom who is a neuroradiologist, who ultimately performed three lumbar epidural injections through 1/26/05. Dr. Rosenstein on 1/31/05 states that after a series of epidural injections the patient is significantly improved from his symptoms, specifically his low back. Unfortunately the pain returned in March of 2005 and ultimately in May of 2005 he has a designated doctor report. At this point things become a little curious as the discussion centers on his cervical spine. This is the first notation of anyone discussing cervical spine symptoms. A cervical spine and lumbar myelogram are recommended by this designated physician. He ultimately is noted to have small disc protrusions at C3, C5 & C6. Dr. Rosenstein feels that the patient has occipital neuralgia and occipital nerve blocks are ultimately performed. The patient's cervical spine had at this point been determined to be a part of the compensable injury of ___ despite the fact that there was no discussion of this problem in any of the physician notes earlier. In time, the patient's pain levels are described as having escalated to the point that he ultimately has to take off work. In June of 2005 he has the first of three cervical epidural steroid injections performed, again by Dr. Rosenstein and unfortunately, unlike his lumbar spine, he has no long lasting improvement. He has a cervical lumbar myelogram with post myelographic CT performed in November 2005 and he is noted to have tiny paracentral disc protrusions at C5 and C6 and he is described as having a normal lumbar myelogram. Because of the lack of progress, Dr. Rosenstein has now recommended a two level anterior cervical discectomy and fusion on this patient.

REQUESTED SERVICE(S)

C5 and C6 anterior cervical discectomy and fusion

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

Dr. Rosenstein has completely failed in linking this patient's C5 and C6 disc spaces to his clinical complaints of neck pain which at one point

were described as being occipital neuralgia. The descriptions on his cervical spine CT scan as well as the myelogram and the post myelographic CT performed later are normal for a gentleman of this age. He is also noted to have abnormalities at C4 and one wonders why Dr. Rosenstein has decided to operate upon C5 and C6. This patient has no evidence of instability; he has not evidence of a cervical radiculopathy despite the description that Dr. Rosenstein gives. His physical exam is within normal limits. There is no neurologic compression on his imaging studies on either his cord or his nerve roots, so we are left with a pain syndrome and although the patient has failed epidural injections as well as physical therapy, this does not warrant an operation, particularly on anatomy which on two different occasions has been found to be within normal limits. According to the ***Occupational Medicine Practice Guidelines***, the surgical considerations given for work related acute neck and upper back symptoms include:

1. Severe spinal vertebral pathology. This patient has normal spinal vertebral anatomy.
2. Severe debilitating symptoms with physiologic evidence of specific nerve or spinal cord dysfunction. This patient has no nerve or spinal cord dysfunction documented on his physical exam.
3. Persistent severe and disabling shoulder and or arm symptoms. This patient has no radicular symptoms. He is complaining only of axial pain.
4. Clear clinical imaging and electrophysiologic evidence that consistently indicates the same lesion. This patient has no clear clinical imaging or electrophysiologic evidence of any abnormality.
5. Unresolved radicular symptoms after receiving conservative treatment. This patient has not radicular signs or symptoms.

In short, Dr. Rosenstein has not established any diagnoses supporting surgery. This patient has normal imaging studies and any surgical procedure aimed at his cervical spine is unsupported and unwarranted.

Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the provider and 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.

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.

Chief Clerk of Proceedings
Division of Workers' Compensation
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with 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 10th day of March 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell