

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-1058-01
Name of Patient:	
Name of URA/Payer:	Texas Mutual Insurance
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Jacob Rosenstein, MD

April 28, 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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Notice of Independent Review Determination
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Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Raymond W. Dillard
Jacob Rosenstein, MD
Hugh Wilson, MD
Division of Workers' Compensation

CLINICAL HISTORY
RECORDS REVIEWED:

1. Notification of IRO Assignment describing the initial and then the subsequent second level denial of the surgical procedure.
2. Chart notes from Dr. Jacob Rosenstein dated 2/7/06.
3. CT myelogram describing borderline spinal cord impingement.
4. IME performed by Dr. James Tyler, D.O. 11/23/05.
5. Medical records from Jacob Rosenstein, MD.
6. Medical records from Hugh Wilson, MD.
7. Consultation report by Paul McDonough, MD.
8. Radiology report from Eastland Memorial Hospital.
9. Medical records from Stephens Memorial Hospital.
10. Medical notes from Spine Abilene

This is a 46-year-old gentleman who was injured on _____. He states that he was working on an oil rig and pipes came out of the derrick and hit him in the back, head and the shoulders. He has a past medical history of a prior back fusion from L4 through the sacrum in _____ and that did not limit him in any fashion. He was apparently complaining of neck, shoulder and low back pain after the injury. He had x-rays of his right shoulder as well as lumbar spine and both were felt to be within normal limits. Later he had an MRI of the right shoulder which showed substantial changes. Approximately four months later he had an MRI of the lumbar spine which showed post operative changes from L4 through the sacrum but no substantial abnormalities. On 8/31/05 he had an MRI of the cervical spine which showed single level disease with a disc protrusion at C6 contacting the

cervical cord, slightly displacing it. At some point he was referred to Dr. Rosenstein for evaluation. A CT myelogram was performed and he was found to have borderline spinal cord impingement with the canal still noted to be 11mm; this being at C6. It was also noted that the C7 roots exited normally. He was also seen for an IME by Dr. James Tyler, D.O who is a neurosurgeon. This was performed on 11/23/05. On that physical exam he is noted to have normal motor exam, his sensory exam is reduced to the right in a non specific pattern and he is diagnosed as having cervical myalgia as well as a right radical plexopathy. Dr. Rosenstein's last evaluation was on 2/7/06 in which the patient was found to have a normal motor exam, hypesthesia to the pin in his right hand with reflexes which were described as being 1 and symmetric. Dr. Rosenstein felt that this patient had a cervical radiculopathy and recommended a C6 Anterior Cervical Fusion.

REQUESTED SERVICE(S)

A C6-C7 ACDF.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

This gentleman is having neck pain, but aside from very poorly described sensory abnormalities which are purely subjective, he has a normal physical exam. His reflexes are felt to be normal, his motor exam is normal; he has no nerve root tension signs, so there is nothing on physical exam for either a radiculopathy or a myelopathy. Dr. Rosenstein's assertion that this gentleman has a right cervical radiculopathy is not based upon any physical exam evidence. As far as the disc protrusion at C6; while a 2 to 3mm disc protrusion can cause neck pain in very selective individuals, the majority of the time this is a normal finding. There is nothing in the medical records that indicates this patient has had any form of conservative management; he has been described as being treated conservatively but there is no discussion as to what that conservative treatment entailed. There is no discussion of attempting to mitigate contributing factors including his tobacco use and there is no discussion of his state of conditioning.

The orthopedic spine surgeon, Dr. Paul McDonough, said on 10/6/05 that the disc protrusion is relatively central and did not think that surgical treatment would give the patient any significant benefit and that the patient's arm pain is multi factorial. There was also a concern

that he had been developing reflex sympathetic dystrophy. There is nothing at all in the records which indicate that this gentleman's problem can be addressed with an anterior cervical discectomy and fusion

Therefore, based on the recommendation from the **North American Spine Society** regarding cervical fusions as well as the recommendation of the **Occupational Medicine and Practice Guidelines** published by the **American College of Occupational and Environmental Medicine**, this gentleman does not fulfill the criteria for and anterior cervical discectomy and fusion. Specifically this patient will require a positive physical exam; one that indicates either cervical radiculopathy that is resistant to conservative management or the evidence of a cervical myelopathy, neither of which is present, or the presence of chronic neck pain that has been resistant to conservative management, the latter of which has not been performed.

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 28th day of April 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell