

NOTICE OF INDEPENDENT REVIEW DECISION

Bridgepoint I, Suite 300  
5918 West Courtyard Drive • Austin, TX 78730-5036  
Phone 512-329-6610 • Fax 512-327-7159 • www.tmf.org

April 27, 2006

Requestor

Jacob Rosenstein, MD  
ATTN: Jennifer Negri  
800 W. Arbrook Blvd., #150  
Arlington, TX 76015

Respondent

TAC WC Fund c/o Parker & Associates  
ATTN: William Weldon  
7600 Chevy Chase Dr., Ste 350  
Austin, TX 78752

RE: Claim #:  
Injured Worker:  
MDR Tracking #: M2-06-1077-01  
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 Neurological Surgery, by the American Board of Neurological Surgery Inc., licensed by the Texas State Board of Medical Examiners (TSBME) in 1986, 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 \_\_\_ when he was involved in a whiplash injury with heavy equipment. This resulted in injury to his cervical spine. The patient has been treated with physical therapy as well as surgery to the cervical spine.

Requested Service(s)

Discogram at C3-4 and C4-5

Decision

It is determined that the discogram at C3-4 and C4-5 is medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The medical record documentation indicates that the patient was experiencing posterior cervical and trapezoid pain with daily occipital headaches that have not responded to conservative care. A myelogram/CT scan revealed spondylosis and disc protrusion at C4-5. A discogram at C4-5, with C3-4 as a potential control level, is a reasonable and medically necessary procedure to evaluate the patient in anticipation of additional surgical intervention.

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.

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: Charles D. Westbrook, Injured Worker  
Program Administrator, Medical Review Division, DWC

In accordance with Division 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 27th day of April 2006.

Signature of IRO Employee:  
Printed Name of IRO Employee:

Information Submitted to TMF for Review

Patient Name:

Tracking #: M2-06-1077-01

Information Submitted by Requestor:

- Office notes from Dr. Rosenstein
- Report of cervical myelogram and CT
- Physical examination by Dr. Marable

Information Submitted by Respondent:

- Request for preauthorization
- Employers First Report of Injury
- Patient progress notes
- Emergency department records
- X-ray reports
- Reports of MRI of cervical spine
- Letter from Dr. Stasikowski
- Physical therapy notes
- Letters from Dr. Kesterson
- Report of myelogram and CT scan C-spine
- Operative reports
- Imaging reports from Harris Methodist Ft. Worth
- History and Physical from Dr. Donovan
- Follow up office notes from Dr. Donovan
- EMG and nerve conduction velocity reports
- Review of medical history and physical exam Dr. Reid
- Office visit notes from Dr. Dixon
- Office notes from Dr. Rosenstein
- Upper extremity electrodiagnostic study
- Myocardial Perfusion Imaging
- Outpatient records USMD Surgical Hospital
- Inpatient records USMD Surgical Hospital
- Impairment Rating Report
- Impairment Rating reviews
- Report of Medial Evaluation
- Chronic pain management program notes
- Psychotherapy notes