

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-1181-01
Name of Patient:	
Name of URA/Payer:	American Home Assurance
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Jacob Rosenstein, MD

May 15, 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
Nick Cianelli, DC
Division of Workers' Compensation

CLINICAL HISTORY

RECORDS REVIEWED:

1. Notification of IRO Assignment.
2. North Texas Neurosurgical Consultants office notes of Dr. Jacob Rosenstein.
3. IRO Medical dispute resolution M2 Prospective Medical Necessity Notification Letter which includes previous reviews as well as denials.
4. MRI scan from Lone Star imaging dated 5/31/05.
5. Op report for caudal epidural steroid injections performed by Dr. Arthur Speece.
6. CT myelogram from Lone Star imaging dated 5/15/05.
7. Office notes from Dr. Gaston Machado.
8. Neurological evaluation from Dr. Jonathan Walker including EMG and nerve conduction studies.
9. Chiropractic Evaluation by Spears Injury Clinic, Dr. Timothy Spears.
10. Neurology evaluation performed on 9/30/05 by Dr. Charles Marable.

This 28 year-old woman was injured on _____. There is conflicting discussion as to what happened but apparently she was walking with some bathroom tissue and slipped on some clear fluid that was on the floor. She fell twisting and was hit on the right side of her head by a box of diapers. At that point she began complaining of headaches as well as pain in her low back related to the twisting. Shortly after that, she began having difficulty with radiating leg pain. She was seen by a

chiropractor nine days later. At that point she was complaining of pain in her back as well as both of her legs. She was treated with chiropractic management with no significant improvement. She then had an MRI scan on 5/31/05 which showed a left paracentral disc protrusion that just touched the thecal sac at L5 with no other substantial abnormalities. She was then seen by Dr. Glickfield on 6/9/05 and he found that she had a normal physical exam and he concurred with the use of epidural steroid injections. She had an EMG a week later which was found to be within normal limits. A week following this, she had a CT myelogram which showed a tiny annular bulge at L4 and a slightly larger one at L5 with no selective nerve root involvement. She was evaluated by Dr. Machado who felt that she had a lumbar radiculopathy and he confined her to bed and continued her pain medication as well as began the discussion of a surgical cure. She was seen by a neurologist who then confirmed that she was a surgical candidate and then ultimately in November of last year she was referred to Dr. Rosenstein complaining of significant low back pain radiating to her left foot. Dr. Rosenstein was not happy with the CT myelogram that was performed in June and he recommended a discogram. On his physical exam she was found only to have a positive straight leg raising sign on the left side with pain in her back and left buttocks. A repeat CT myelogram was performed in December of 2005 and she was found to have similar findings as to the study done six months earlier; again a small disc protrusion at L5. There is mention of hypertrophy of the ligaments at L4 and facet spurring at L2 as well as at L4 and Dr. Rosenstein felt that her symptoms were arising from the L5 protrusion. At this point he reconfirms that a discogram should be performed. The discogram ultimately is refused. The patient is still followed by Dr. Rosenstein after refusal of the discogram. In February 2006 he states that her left lumbar radiculopathy is worsening despite the statement that she has a normal physical exam with the exception of the straight leg raising sign noted on the left side. She is seen again in March of this year. At this point Dr. Rosenstein has discussed doing a L5 posterior interbody fusion with her without the benefit of any further testing. This procedure was then denied and Dr. Rosenstein is currently appealing.

REQUESTED SERVICE(S)

L5 posterior lumbar interbody fusion.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

This patient has a normal physical exam with the exception of straight leg raising sign. She has had a number of imaging studies including two CT myelograms and an MRI scan. According to Dr. Rosenstein the patient is shown to have diminished bilaterally at L4 and L5. By this, it is assumed that he is discussing the L5 nerve roots. The study, unfortunately does not confirm that. It mentions bilateral lateral impressions on the dural sac larger on the right, but no discussions of nerve root cutoff. At the L5 area that he is recommending a surgical procedure, there is only a 2mm disc bulge but the report states that both S1 nerve roots fill out on the myelogram. In short, this patient has no physical exam abnormalities. She has relatively normal imaging including two CT myelograms as well as an MRI scan and a normal EMG. It would be hard to justify any surgical procedure on this patient, much less a posterior lumbar interbody fusion. This latter procedure is specifically denied on multiple grounds, chief of which this patient's remediable factors have not been assessed. As pointed out by a previous reviewer, this patient is 5'2" and initially weighed 190 lbs. She is now up to 235 lbs. Any procedure in this type of setting is doomed to failure. Further, if an appropriate physical reconditioning program was instituted, it is very likely that her weight would come off and her low back pain would diminish. Other remediable factors including the use of narcotics need to be addressed. Throughout this entire chart it does not state whether she uses tobacco or not. This too needs to be addressed.

Thus, this patient fails to meet any criteria for a surgical procedure, much less a posterior interbody fusion because of a lack of conservative management aimed at remedial factors, as well as a lack of physical exam, electromyographic and imaging criteria. The reason for this refusal can be supported by using the ***Occupational Medicine Practice Guidelines*** as well as the ***American Association of Neurologic Surgeons Spine Fusion guidelines*** as well as the ***North American Spine Society Guidelines for the Treatment of Back Pain and Back Fusions***.

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 16th day of May 2006.

Signature of IRO Employee: _____
Printed Name of IRO Employee: Cindy Mitchell