

NOTICE OF INDEPENDENT REVIEW DECISION

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July 5, 2006

Requestor

Robert J. Henderson, MD
ATTN: Amada S.
1261 Record Crossing
Dallas, TX 75235

Respondent

Transportation Ins. Co., c/o CNA
ATTN: Jane Stone
P.O. Box 30111
Austin, TX 78755

RE: Claim #:
Injured Worker:
MDR Tracking #: M2-06-1481-01
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 1969, 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 motor vehicle accident while driving an 18-wheeler causing pain to his cervical and lumbar spine. An MRI of the lumbar spine revealed evidence of a disc protrusion at the L5-S1 level and an MRI of the cervical spine was reported as normal. The patient has been treated with epidural steroid injections.

Requested Service(s)

Anterior interbody fusion L5-S1; retroperitoneal exposure and discectomy L5-S1; interbody fixation L5-S1; posterior decompression L5-S1; transverse process fusion L5-S1; posterior internal fixation; bone graft, allograft; bone graft in situ; bone graft, autograft iliac crest; bone marrow aspirate; cybertech TLSO

Decision

It is determined that the Anterior interbody fusion L5-S1; retroperitoneal exposure and diskectomy L5-S1; interbody fixation L5-S1; posterior decompression L5-S1; transverse process fusion L5-S1; posterior internal fixation; bone graft, allograft; bone graft in situ; bone graft, autograft iliac crest; bone marrow aspirate; cybertech TLSO is medically necessary to treat this patient's condition.

Rationale/Basis for Decision

This patient suffers "discogenic pain" on the basis of degenerative disc disease. The positive provocative discography (performed on 03/15/06) suggests that the discogenic pain is isolated to a single level, L5-S1. Recently, a two center prospective study performed by members of the Spine Surgery Society has demonstrated that this syndrome, "discogenic pain", can be treated by the anterior diskectomy and interbody fusion approach. There is sufficient documentation of discogenic pain at the level of L5-S1 to justify this surgical procedure as requested.

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 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 5th day of July 2006.

Signature of IRO Employee:

Printed Name of IRO Employee:

Information Submitted to TMF for Review

Patient Name: ____

Tracking #: M2-06-1481-01

Information Submitted by Requestor:

- Request for Preauthorization for Surgery
- Chart Notes from Dr. Henderson
- Operative Reports
- Report of MRI of the lumbar spine

Information Submitted by Respondent:

- Attorney Response to IRO Records Request
- Employer's Report of Injury or Illness
- Emergency Room Notes
- Radiology Reports
- Office Notes Dr. Mehaffey
- Report of MRI of the lumbar spine
- Chiropractic Peer Review
- NCV & EMG Report
- Report of MRI of the cervical spine
- Examination by Dr. Erwin
- Letter from Dr. Spier
- Examination by Dr. Sanders
- Psychological Evaluation
- Office Notes Dr. Smith
- Office Notes Dr. Murrell
- Chart Notes from Dr. Henderson
- Operative Report
- Request for Pre-authorization
- Functional Capacity Evaluation
- Prescriptions from Dr. Murrell
- Decision Letter