

NOTICE OF INDEPENDENT REVIEW DECISION

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October 30, 2006

Requestor

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

Respondent

Pacific Employers Insurance Co.
c/o ESIS, Inc.
ATTN: Beverly Weygnandt
P.O. Box 152036
Irving, TX 75015

RE: Claim #: _____
 Injured Worker: _____
 MDR Tracking #: M2-07-0129-01
 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 Othopedic 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 unloading cases of drinks, bent over, lifted, and twisted his back. This resulted in an onset of severe low back pain. The patient has undergone testing and has been treated with physical therapy and epidural steroid injections.

Requested Service(s)

Lumbar discogram at L3-S1 with L2-3 for control level

Decision

It is determined that the lumbar discogram at L3-S1 with L2-3 for control level is not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

Though the secondary literature (textbooks) still include information relative to the indications for discography, the more recent primary literature (journal articles) in spine surgery has included significant negative opinions. A series of articles by Carragee et. al in the journal Spine between 1999-2000 has raised serious questions as to the efficacy of utilizing discography in establishing the diagnosis of discogenic pain. In the most recent Instructional Course Lectures, Spine, the role of discography has been seriously questioned (p.64). It would appear, in the light of most recent spine literature and the comments in Instructional Course Lectures, Spine, that discography no longer can be justified as a diagnostic study or as a study valuable in preoperative planning.

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 30th day of October 2006.

Signature of IRO Employee:

Printed Name of IRO Employee:

Information Submitted to TMF for Review

Patient Name: ____

Tracking #: M2-07-0129-01

Information Submitted by Requestor:

- Initial chart note by Dr. Henderson
- Operative note for lumbar myelography with CAT scan
- Report of MRI of the lumbar spine

Information Submitted by Respondent:

- Initial chart note by Dr. Henderson
- Progress notes by Dr. Van de Water
- Report of Functional Abilities Evaluation
- History and Physical by Dr. Cowens
- Letter regarding the examination by Dr. George
- Operative Report for epidural steroid injections
- Office notes from Dr. Duarte
- Physical therapy evaluation
- Report of lumbar myelogram
- Report of xrays of the cervical spine
- Physical therapy notes
- Disability determination by Dr. Whitehead
- Report of Functional Capacity Evaluation
- Report of MRI of the lumbar spine
- Retrospective peer review by Dr. Blanchette
- Office notes from Dr. Kinzie