

Clear Resolutions Inc.

An Independent Review Organization

3616 Far West Blvd. Suite 337-117

Austin, TX 7831

October 27, 2006

DWC Medical Dispute Resolution

Fax: (512) 804-4868

Delivered via Fax

Patient / Injured Employee

TDI-DWC #:

MDR Tracking #:

IRO #:

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M2-07-0144-01

5327

Clear Resolutions has been certified by the Texas Department of Insurance as an Independent Review Organization. The Division of Worker's Compensation Commission has assigned this case to Clear Resolutions for independent review in accordance with DWC Rule 133.308 which allows for medical dispute resolution by an IRO.

Clear Resolutions has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed MD board certified and specialized in Orthopedic Surgery. The Reviewer is on the DWC Approved Doctor List (ADL). The Clear Resolutions health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Clear Resolutions for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

A certification that the reviewing provider has no known conflicts of interest between that 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.

RECORDS REVIEWED

Notification of IRO assignment, information provided by requestor, information provided by respondent, information provided by the treating doctor(s), including but not limited to:

- MRI brain 08/17/04
- Chest x-ray 10/11/04
- Pulmonary function test 10/11/04
- MRI left shoulder 04/25/05
- X-ray left shoulder 04/25/05
- Functional capacity evaluation 04/26/05
- Statement of medical necessity 05/25/05, 01/11/06, 08/22/06, 09/19/06

- MRI cervical spine 06/07/05
- X-ray cervical spine 06/07/05
- Designated doctor report 07/19/05 , 12/15/05
- Operative report 08/25/05, 11/29/05, 07/05/06
- Surgical pathology 07/05/06
- Dr. Brownhill (ortho) OV 10/04/05, 04/06/06
- Dr. Berliner (ortho) OV - 08/31/05, 08/31/05, 09/29/05, 11/10/05, 12/08/05, 01/11/06, 03/07/06, 07/13/06, 07/08/22/06 , 09/19/06
- Cervical myelogram 11/03/05
- Post CT myelogram 11/03/05
- MRI right elbow 11/22/05
- X-ray right elbow 11/22/05

CLINICAL HISTORY

This 41 year old male sustained a neck injury after he was thrown approximately six feet on _____. An MRI of the cervical spine done on 06/07/05 showed a disc herniation at the C6-7 level. The records indicated that the Patient treated conservatively with physical therapy, medications and cervical epidural steroid injections. Throughout 2005, the Patient continued to report ongoing cervical spine pain with some symptoms consistent with radiculopathy.

Physical examinations in July, August and September of 2006 revealed tenderness in the cervical spine with decreased cervical range of motion, a positive Spurling's maneuver on the left, decreased strength on the left and diminished sensation in the left third, fourth and fifth fingers. A cervical discectomy and fusion at the C6-7 level was recommended.

DISPUTED SERVICE (S)

Under dispute is the concurrent and/or prospective medical necessity of:

- Cervical discectomy C6-7 (63081)
- Anterior plate (22845)
- Bone graft (20931)
- Pain catheter (21899)
- ACDF C6-7 (22554)
- IB device (22851)
- Bone stimulator (20974)

DETERMINATION / DECISION

The Reviewer agrees with the determination of the insurance carrier.

RATIONALE / BASIS FOR THE DECISION

The reviewer cannot recommend the proposed anterior cervical discectomy and fusion, cervical discectomy, anterior plate bone graft, pain catheter, IB device or bone stimulator as being medically necessary for this Patient. The Patient has evidence of discogenic disease, but no evidence of neurologic compromise of his cervical spine. EMGs are within normal limits. Motor evaluation and reflex evaluation of the upper extremities is within normal limits. The patient has evidence of discogenic disease, but this has not been proven to be effectively treated with discectomy and fusion, particularly in the cervical spine in the absence of neurologic compromise

Screening Criteria

1. Specific:

- ACOEM guidelines, Chapter 8 p. 180-181.
- Official Disability Guidelines Fourth Edition Treatment in Worker's Compensation 2006 p. 1112, 1115

2. General:

In making his determination, the Reviewer had reviewed medically acceptable screening criteria relevant to the case, which may include but is not limited to any of the following: Evidence Based Medicine Guidelines (Helsinki, Finland); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Texas Chiropractic Association: Texas Guidelines to Quality Assurance (Austin Texas); Texas Medical Foundation: Screening Criteria Manual (Austin, Texas); Mercy Center Guidelines of Quality Assurance; any and all guidelines issued by DWC or other State of Texas Agencies; standards contained in Medicare Coverage Database; ACOEM Guidelines; peer-reviewed literate and scientific studies that meet nationally recognized standards; standard references compendia; and findings; studies conducted under the auspices of federal government agencies and research institutes; the findings of any national board recognized by the National Institutes of Health; peer reviewed abstracts submitted for presentation at major medical associates meetings; any other recognized authorities and systems of evaluation that are relevant.

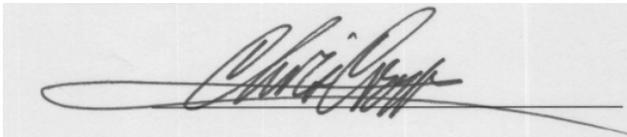
CERTIFICATION BY OFFICER

Clear Resolutions has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Clear Resolutions has made no determinations regarding benefits available under the injured employee's policy.

As an officer of Clear Resolutions Inc., I certify that there is no known conflict between the Reviewer, Clear Resolutions and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Clear Resolutions is forwarding, by mail or facsimile or electronic means, a copy of this finding to the DWC, the Injured Employee, the Respondent, the Requestor, and the Treating Doctor.

Sincerely,
Clear Resolutions Inc.



Chris Crow
President & Chief Resolutions Officer

Cc: Texas Water Conservation Assoc.
Attn: Cindy Higgens
Fax: 512-346-9321

Kenneth G. Berliner
Attn: Brenda Gozales
Fax: 281-875-3285

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.

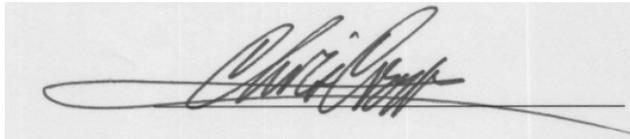
If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the 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.

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

I hereby certify, in accordance with DWC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, patient (and/or the patient's representative) and the DWC via facsimile, U.S. Postal Service or both on this 27th day of October, 2006.

Name and Signature of Clear Resolutions Inc. Representative:

Clear Resolutions Inc.

A handwritten signature in black ink, appearing to read "Chris Crow", is written over a horizontal line. The signature is fluid and cursive.

**Chris Crow
President**