

Envoy Medical Systems, LP
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IRO Certificate #4599

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NOTICE OF INDEPENDENT REVIEW DECISION

November 17, 2006

Re: IRO Case # M2-07-0190 –01 _____

Texas Department of Insurance, Division of Workers' Compensation:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) by the Texas Department of Insurance and has been authorized to perform independent reviews of medical necessity for Division of Workers' Compensation cases. Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that the Division of Workers' Compensation assign cases to certified IROs, this case was assigned to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery, and who has met the requirements for the Division of Workers' Compensation Approved Doctor List or who has been granted an exception from the ADL. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed services
2. Denial letters
3. Initial medical examination 2/22/06, Dr. Lozano
4. Operative report discography with CT scanning 11/3/05, Dr. Mc Kay

5. Reports 12/5/05, 7/31/06, Dr. Yeh
6. DDE 2/22/06, Dr. Sahi
7. Report 5/12/06, Dr. Obermiller
8. Report 8/23/06, Dr. Garcia
9. Report 9/7/06, Dr. Preston
10. Lumbar MRI report 6/23/06
11. Lumbar MRI with myelographic evaluation report 8/27/05
12. Lumbar CT myelogram 6/15/05
13. EMG report 3/25/04

History

The patient is a 36-year-old male who in _____2004 was struck in the back by a forklift. He developed low back and neck pain. The pain soon extended into the lower extremities, mainly on the left side. Early evaluation included EMG, which showed a questionable S1 radiculopathy on the left side. MRI findings have shown minor changes at various levels, including L5-S1 on 4/29/04 and 6/23/06. The patient has had physical therapy, medications, multiple chiropractic treatments, and epidural steroid injections, but his pain persists. There have been no distinct neurologic findings suggesting nerve root compression, and straight leg raising is positive bilaterally at 70 degrees. The patient has significant neck pain to the point that an MRI of the cervical spine was obtained, which was thought to be essentially normal.

Requested Service(s)

Transforaminal lumbar interbody fusion L4-5, L5-S1.

Decision

I agree with the carrier's decision to deny the requested surgery.

Rationale

There is no evidence on any of the patient's examinations of instability, which is one of the reasons for fusion. In addition, one of the other reasons for fusion is recurrent disk rupture, and that is not the case here. Apparently the decision for surgery at the L4-5 and L5-S1 levels is based primarily on the results of a discogram. On that discogram it was stated that there was non-concordant pain on injection of both of those levels. In addition, there were only two levels examined, with no control level being done.

This medical necessity decision by an Independent Review Organization is deemed to be a Worker's Compensation decision and order.

YOUR RIGHT TO APPEAL

If you are unhappy with all or part of this decision, you have a right to appeal the decision. The decision of the Independent Review organization is binding during the appeal process.

If you are disputing a decision other than a spinal surgery prospective decision, the appeal must be made directly to the district clerk in Travis County (see Texas Labor Code sec. 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.

Daniel Y. Chin, for GP

In accordance with Commission Rule 102.4 (b), I hereby certify that a copy of this Independent Review Organization (IRO) decision was sent to the carrier and the requestor or claimant via facsimile or US Postal Service from the office of the IRO on this 20th day of November 2006.

Signature of IRO Representative:

Printed Name of IRO Representative: Alice McCutcheon

Requestor: Dr. Yeh, Attn Shanie Wells, Fx 713-661-5535

Respondent: Texas Mutual Ins Co, Attn Latreace Giles, Fx 224-7094

Texas Department of Insurance, Division of Workers' Compensation: Fx 804-4871