

SOUTHWEST MEDICAL EXAMINATION SERVICES, INC.
7502 GREENVILLE AVENUE
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Notice of Independent Review Decision

SENT TO: Texas Department of Insurance
Health & Workers' Compensation Network Certification and QA Division
(HWCN) MC 103-5A
E-mail IRODecisions@tdi.state.tx.us

Ms. Barbara Sachse
Twin City Fire Ins. Co.
9020 N. Capitol of Texas Hwy.
Bldg. 1, Suite 155
Austin, TX 78759

Richard Francis, M.D.
5420 W. Loop South, Suite 2500
Bellaire, TX 77401

The Hartford
17855 Dallas Parkway
Dallas, TX 75287

February 20, 2007

RE: IRO Case #: MDR Tracking #: M2-07-0767-01
Name: _____
Coverage Type: Workers' Compensation Health Care (Non-network)
Type of Review:
 Preauthorization or Concurrent Review
 Retrospective Review
Prevailing Party:
 Requestor
 Carrier

Southwest Medical Examination Services, Inc. has been certified, certification number IRO Cert # IRO 5313, by the Texas Department of Insurance (TDI) as an Independent Review Organization (IRO). TDI has assigned this case to the IRO for independent review in accordance with the Texas Insurance Code, the Texas Labor Code and applicable regulations.

The IRO has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In the performance of the review, the IRO reviewed the medical records and documentation provided to the IRO by involved parties.

This case was reviewed by a physician who is certified in the area of orthopedic surgery. The reviewer has signed a certification statement stating that no known conflicts of interest exist between the reviewer and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent (URA), any of the treating doctors or other health care providers who provided care to the injured employee, or the URA or insurance carrier health care providers who reviewed the case for a decision regarding medical necessity before referral to the IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

As an officer of Southwest Medical Examination Services, Inc. I certify that:

1. There is no known conflict between the reviewer, the IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute, and
2. A copy of this IRO decision was sent to all of the parties via U.S. Postal Service or otherwise transmitted in the manner indicated above on February 20, 2007.

Right to Appeal

You have the right to appeal the decision by seeking judicial review. The decision of the IRO is binding during the appeal process.

For disputes *other than* those related to prospective or concurrent review of spinal surgery the appeal must be filed:

- 1) Directly with a district court in Travis County (see Labor Code §413.031(m), and
- 2) Within thirty (30) days after the date on which the decision is received by the appealing party.

For disputes related to *prospective or concurrent review of spinal surgery*, you may appeal the IRO decision by requesting a Contested Case Hearing (CCH). A request for a CCH must be in writing and received by the Division of the Workers' Compensation, Division Chief Clerk, within ten (10) days of your receipt of this decision.

Sincerely,

John Turner
Vice President

DATE OF REVIEW: February 20, 2007

IRO CASE #: MDR Tracking #: M2-07-0767-01

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE:

Left side laminectomy and discectomy at L4-S1 with Cryo Unit Rental (10 day rental).

A DESCRIPTION OF THE QUALIFICATIONS FOR EACH PHYSICIAN OR OTHER HEALTH CARE PROVIDER WHO REVIEWED THE DECISION:

American Academy of Orthopedic Surgeons

REVIEW OUTCOME

Upon independent review the reviewer finds that the previous adverse determination/adverse determinations should be:

- Upheld (Agree)
- Overturned (Disagree)
- Partially Overturned (Agree in part/Disagree in part)

INFORMATION PROVIDED TO THE IRO FOR REVIEW

Medical records from the Respondent include:

- Howard Z. Finkel, M.D., 03/05/01, 03/19/01, 04/02/01, 04/30/01, 01/20/03, 02/03/03, 02/13/03, 04/24/03
- Concentra Medical Centers, 03/06/06
- Richard Francis, M.D., 05/09/06, 11/14/06, 12/05/06, 12/19/06, 12/30/06, 01/13/07
- MRI Central, 02/07/03
- River Oaks Imaging and Diagnostic, 03/13/06

Medical records from the Treating Doctor include:

- Meyer L. Proler, M.D., 12/12/06
- Richard Francis, M.D., 05/09/06, 11/14/06, 12/19/06, 12/30/06, 01/13/07
- MRI Central, 02/07/03

- River Oaks Imaging and Diagnostic, 03/13/06

PATIENT CLINICAL HISTORY:

The patient is a 60-year-old . employee whose records are before me for my opinion regarding a dispute regarding recommended surgical care for his low back injury of ____.

Richard Francis, M.D., with Spine Associates of Houston, Bellaire, Texas, recommends decompression, laminectomy, and discectomy at L4-5 and L5-S1 for complaints of low back and left lower extremity radiculopathy type pain in association with multilevel pre-existing degenerative and stenosis changes lower lumbar spine.

The records available note an episode of low back pain presented to his treating doctor in January of 2003. The patient had some left lower extremity radiculopathy and some right lower extremity radiculopathy, but it cleared up over the course of two or three months. Reportedly, the episode in 2003 was not a work related problem. In _____ of _____, however, he had sudden onset of low back and left lower extremity pain while lifting a heavy object at work, and a repeat MRI at this time noted a new finding of a 6 mm central and left-sided disc protrusion at L5-S1 in association with his radicular pain. A previous MRI in January of 2003 did not note a significant disc protrusion at L5-S1, but did note multilevel degeneration.

The records reflect initial conservative management after the injury of _____, and there is some short term improvement then reportedly recurrence in Dr. Francis' note of November 14, 2006, and states that patient had lost his job because of being unable to perform reasonable work activity and had continuing pain with activities of daily life that gave him limitations in standing and walking, in particular. Dr. Francis' physical examination noted positive nerve root findings left lower extremity regarding straight leg lifts, normal neuromuscular sensory evaluation, findings on the new MRI as discussed above, and because of continuing and severe pain and marked limitation of physical activities he recommended surgical decompression at L4-5 and L5-S1 on the left. No fusion was recommended.

The records also include a review from Robert Simpson, M.D. stating that the surgical request by Dr. Francis did not meet ODG Guidelines in the absence of specific motor, sensory, or neurodiagnostic abnormalities available for review. Reportedly, after that fact nerve studies were obtained on December 12, 2006 noting positive findings left lower extremity, with fibrillations consistent with subacute left S1 radiculopathy.

ANALYSIS AND EXPLANATION OF THE DECISION INCLUDE CLINICAL BASIS, FINDINGS, AND CONCLUSIONS USED TO SUPPORT THE DECISION.

I disagree with Dr. Simpson's evaluation because of the history and physical findings in Dr. Francis' office note of November 14, 2006. Dr. Francis describes the patient as being severely limited in his activities of daily life and was fired from his job because he could not perform laboring activity. His walking and standing distance was "severely reduced." Physical examination findings were consistent with S1 radiculopathy left lower extremity with positive nerve root findings, but absent specific neuromuscular sensory deficit and the EMG studies noted fibrillations in the S1 distribution left lower extremity.

It is my opinion that those individuals with MRI evidence of significant disc protrusions that correlate with a history of progressing disabling pain in the presence of positive nerve root findings in the lower extremity are benefited from surgical decompression of the involved nerve root. In this case, this would be just a bit more than microscopic discectomy at L5-S1 because the patient does have neuroforaminal compression at L4-5 and L5-S1 so that the left-sided decompression would likely be extended upward. However, Dr. Francis does not recommend fusion and I totally agree. The patient appears to have a stable spine as a result of his age and degenerative change and I agree that surgical fusion, with its poor results in the workers' compensation scenario, is not justified in this case. However, in my opinion, the procedure recommended by Dr. Francis in his office note of November 14, 2006 is standard of care for the patient.

A DESCRIPTION AND THE SOURCE OF THE SCREENING CRITERIA OR OTHER CLINICAL BASIS USED TO MAKE THE DECISION:

- ACOEM- AMERICAN COLLEGE OF OCCUPATIONAL & ENVIRONMENTAL MEDICINE UM KNOWLEDGEBASE
- AHCPR- AGENCY FOR HEALTHCARE RESEARCH & QUALITY GUIDELINES
- DWC- DIVISION OF WORKERS COMPENSATION POLICIES OR GUIDELINES
- EUROPEAN GUIDELINES FOR MANAGEMENT OF CHRONIC LOW BACK PAIN
- INTERQUAL CRITERIA
- MEDICAL JUDGEMENT, CLINICAL EXPERIENCE, AND EXPERTISE IN ACCORDANCE WITH ACCEPTED MEDICAL STANDARDS
- MERCY CENTER CONSENSUS CONFERENCE GUIDELINES
- MILLIMAN CARE GUIDELINES
- ODG- OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES
- PRESSLEY REED, THE MEDICAL DISABILITY ADVISOR
- TEXAS GUIDELINES FOR CHIROPRACTIC QUALITY ASSURANCE & PRACTICE PARAMETERS
- TEXAS TACADA GUIDELINES
- TMF SCREENING CRITERIA MANUAL
- PEER REVIEWED NATIONALLY ACCEPTED MEDICAL LITERATURE (PROVIDE A DESCRIPTION)
- OTHER EVIDENCE BASED, SCIENTIFICALLY VALID, OUTCOME FOCUSED GUIDELINES (PROVIDE A DESCRIPTION)