

June 3, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M2-03-1067-01
IRO #: 5251

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

___ 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 Medical Doctor with a specialty and board certification in Orthopedic Surgery. The ___ 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 ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ sustained an injury to his lower back while he was lifting heavy 300-pound cabinets at work on ___. He developed severe low back pain with bilateral radiation down the back of the hips and into the legs, but it was much worse on the left side than the right side. He consulted ___ a neurosurgeon, who worked him up with an MRI that demonstrated disc herniation at L4/5 on the right side and also disc herniation at L5/S1 on the left side with apparent nerve root compression at those two levels. He also had an EMG that demonstrated evidence of bilateral L5 and L1 radiculopathy.

The patient was felt to be a candidate for lumbar laminectomy and decompression at two levels, the L4/5 and L5/S1 levels. This procedure was felt to be necessary on both sides. The patient was taken to surgery on August 24, 2002 and the decompression procedure was carried out. Unfortunately, the patient did not seem to get any relief at all from the surgery.

The patient continued to have severe low back and left leg pain. He developed symptoms of impotence and his low back pain continued. He saw ___, a spine surgeon, and a repeat MRI was done that demonstrated considerable scar tissue on the MRI and no real definite evidence of disc herniation. The patient had gadolinium enhancement on the MRI that demonstrated the fact that the mass effect on the left nerve root at L1 was enhanced. This would point to the fact that it is probably scar tissue that was present around the left side nerve root at the S1 level.

The patient was felt to be a candidate for a two-level spinal fusion with repeat decompression at L4/5 and L5/S1 bilaterally and interbody fusion with instrumentation. This was recommendation.

The patient saw ____, who agreed with the concept of the patient having further surgery, but he felt that he should at least try epidural steroid injections to see if he could avoid this major surgery that was being proposed. The carrier has not approved the proposed injections. ____ referred the patient to ____ who was actually going to give the epidural steroid injections, but they were not approved.

REQUESTED SERVICE

A series of three transforaminal lumbar epidural steroid injections at levels of bilateral L5 and L1 is requested for this patient.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer finds that the epidural steroid injections are indicated in this case because the patient is attempting to avoid further surgery on his back, and the surgery that is being proposed is extensive and major, and there is certainly no guarantee that the surgery will help his problem. For this reason, the series of epidural steroid injections is indicated.

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

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

____ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective *spinal surgery* decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within 10 days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other *prospective (preauthorization) medical necessity* disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(t)(2).

I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 3rd day of June 2003.