

July 23, 2003

Re: Medical Dispute Resolution
MDR #: M2-03-1209-01
IRO Certificate No.: 5055

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to ___ for an independent review. ___ has performed an independent review of the medical records to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is Board Certified in Physician Medicine & Rehabilitation and in Pain Management.

Clinical History:

The history provided is one of a 61-year-old gentleman who sustained an injury on his job on ___. The patient could not return to work, resuming lifting activities, without experiencing rather severe recurrence of pain.

Disputed Services:

Work conditioning program.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that a work conditioning program is not medically necessary in this case.

Rationale:

Although an MRI scan did not confirm a discogenic injury, it should be noted that statistics show that the MRI scan misses this diagnosis in as high as an estimated 30% of cases. In the reviewer's opinion, there is little question that this gentleman sustained a discogenic injury. Research by ___ and ___ that was published in *Spine* in approximately May 1997, reported that a number of patients with back pain and radicular pain with essentially a normal MRI scan, were found by discography to have a discogenic basis for the pain. The other portion of that paper identified the McKenzie Mechanical Evaluation as perhaps the most effective form of physical examination. This evaluation was not done by either treating physician.

The fact that the patient could not return to work without experiencing severe pain argues against a sprain or strain-type injury, or even sacroilitis. The mechanism of injury does not identify an injury that would normally produce sacroilitis, and there is virtually no medical evidence in the literature to support a sprain or strain-type injury as the proper diagnosis for a patient with back pain, particularly with back pain and radicular pain.

It is the opinion of the reviewer that this patient has not been properly diagnosed. Therefore, at this point in time, a work conditioning program or work hardening program would only aggravate the patient's symptoms and would not result in resolution of his pain.

I am the Secretary and General Counsel of ___ and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this care for determination prior to referral to the Independent Review Organization.

We are simultaneously forwarding copies of this report to the payor and the Texas Workers' Compensation Commission. This decision by ___ is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

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

If disputing a spinal surgery prospective decision a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings **within ten (10) days** of your receipt of this decision (28 Tex. Admin. Code 142.5©).

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

This Decision is deemed received by you **five (5) 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 Workers' Compensation Commission
P.O. Box 40669
Austin, TX 78704-0012

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

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 May 14, 2003.

Sincerely,