

Z iro C

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April 5, 2005

TWCC Medical Dispute Resolution

Fax: (512) 804-4868

Patient:

TWCC #:

MDR Tracking #:

M2-05-0713-01

IRO #:

5251

Ziroc 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 Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc 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 board certified and specialized in orthopedic surgery. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc 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 Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

RECORDS REVIEWED

- Spine Resource Consultants, Dr. Stanley Bigos
- UniMed LLC Adverse Determination Reports
- BOSS reports, Dr. Vander Weide, 10/14/04 and 10/24/04
- Kenneth Berliner, MD, orthopedic consultant of 10/24/04
- Eric Santos, MD, 07/29/04, 08/26/04 and 09/30/04
- Gallery Healthcare Centers
- Advanced Neurological Associates, EMG reports 07/29/04, Dr. Slaughter

- Downtown Plaza Imaging Center Reports, lumbar myelogram 06/16/04, myelogram CT 06/16/04, chest and lumbar radiograph report 06/16/04, MRI report 06/30/04
- Houston Injury Rehabilitation
- Texas Surgicom, Dr. Shanti
- Arkansas Claims Management, 03/09/05, physical therapy work hardening notes

CLINICAL HISTORY

The patient sustained an OTJ on ___ lifting cases of water. He felt immediate pain and a pop in his low back. His nonsurgical care included 5 months of therapy, chiropractic, NSAID's, ESI's, and a work hardening program. Dr. Santos recommended surgery, an artificial disc replacement in 10-04. Dr. Slaughter 7-04, documented patient complaints of numbness in both legs, decreased sensation in the left L5 and S1 dermatomes as well as the positive EMG test (L5 and S1). Dr. Berliner saw this pt on 10-24-04. He documented complaints of back and left leg pain and numbness. The symptoms were made worse by standing and walking., improved when the patient sits. The leg pain is in the buttock, thigh and is accompanied by tingling in the feet. The PE was positive for Kemp's sign, complaints of pain reproduction with standing (buttock and leg), a negative SLR, and decreased sensation in the left leg. He documented imaging abnormalities including spinal stenosis on the CT myelo 6-16-04. He noted EMG abnormalities suggestive of bilateral L5 and left S1 radiculopathies. He diagnosed neurogenic claudication secondary to spinal stenosis at L45. He advised a surgical decompression of L45. Dr. Vanderweide, RME, saw the patient on two occasions. He disagreed with the operative plan proposed by Dr. Kenneth Berliner, and noted submaximal effort on FCE as well as a normal neuro exam. Dr. Vanderweide concluded that the patient had findings more consistent with an S1 pattern which did not fit with the pattern for the proposed surgical decompression at L45.

REQUESTED SERVICE

The medical necessity of a surgical decompression of L45 is requested for this patient. The carrier denied this request based on the following: 1. self limiting behavior on the FCE, 2. That while the myelogram revealed facet hypertrophy at L45, the EMG findings of S1 radic and the myelogram findings at L5S1 are indicative of the medical problem being at the L5S1 level and not at the L45 level. Therefore, surgery at L45 is not indicated. 3. There are no findings of radiculopathy attributable to the L45 that require operative decompression is requested for this patient.

DECISION

The reviewer disagrees with the determination of the insurance carrier.

BASIS FOR THE DECISION

The carrier's basis was the report of Dr. Vanderweide. He failed to make a diagnosis of symptomatic spinal stenosis at the L45 level. But this is the correct diagnosis and is based on a number of findings documented in the medical record: 1. The classic neurogenic claudication patient complaints of pain with standing and walking, relieved by sitting, 2. Pain reproduction on PE when patient was standing, also consistent with spinal stenosis, 3. Diminished sensation in a dermatomal distribution on PE, 3. Myelographic findings of spinal stenosis at the L45 level, 4. Radiographic findings (even though recumbent) of spondylolisthesis at L45, and 5. EMG findings suggestive of L5 nerve root involvement.

Interestingly, included in the records is a report by Dr. Stanley Bigos. His report, like that of Dr. Vanderweide, does not include the above findings consistent with symptomatic spinal stenosis. In spite of his having reviewed Dr. Berliner's report, Dr. Bigos mentions nothing of neurogenic

claudication. In spite of his having reviewed the myelogram/CT report, he mentions nothing about spinal stenosis at L45.

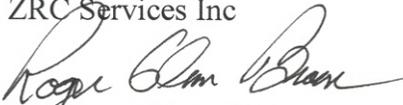
This patient's symptoms (distribution as well as relationship to activities), and physical exam findings correlated with the electrodiagnostic and imaging tests to confirm a diagnosis of spinal stenosis at L45, the level of decompression recommended by Dr. Berliner.

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

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

Ziroc 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,
ZRC Services Inc



Dr. Roger Glenn Brown
Chairman & CEO

RGB:dd

cc:

Kenneth G. Berliner, MD
Attn: Brenda Gonzalez
Fax: 281-875-3285

American Home Assurance Co
Attn: Frances Robinson
Fax: 512-867-1733

Acxiti Buendia, MD
Fax: 281-448-6008

YOUR RIGHT TO REQUEST A HEARING

Either party to medical dispute may disagree with all or part of the 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 **10** (ten) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

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 **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk
P.O. Box 17787
Austin, Texas 78744
Fax: 512-804-4011

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

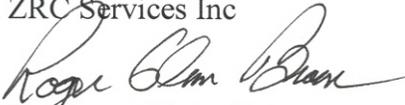
Name/signature

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 5th day of April, 2005.

Signature of Ziroc Representative:

Name of Ziroc Representative:

Sincerely,
ZRC Services Inc



Dr. Roger Glenn Brown
Chairman & CEO