



Specialty Independent Review Organization, Inc.

September 8, 2005

TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M2-05-2257-01
IRO #: 5284

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

Specialty 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.

This case was reviewed by a licensed Medical Doctor with a specialty in Anesthesia and Pain Management. The reviewer is on the TWCC ADL. The Specialty IRO 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 Specialty IRO 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

According to the medical records, the patient was working for the City of Lubbock when he experienced a physical altercation with a fellow employee. During this event, the patient was picked up by the other employee and flipped on his back causing sharp pain to his back. The incident was then reported to the supervisor and Dr. Archibald treated him with minimal therapy and return to work. The patient did present with a history of lumbar fusion in 1994 at the level of L5-S1. According to the x-ray, this was a posterolateral fusion on the right at L5-S1. However, the patient had been working full-duty without physical limitations before the injury of _____. Since this time the patient had presented cervical and lumbar complaints that did not subside with conservative treatment of physical therapy and medications. He continued to refer pain in the cervical, thoracic and lumbar regions without radicular symptoms to his lower extremities. There is some discrepancy, possible administrative error, due to a second reported mechanism of

injury by Dr. Whitt on ____, which states that the patient slipped on wet pain and landed on the concrete floor. Either way, he sustained an impact to the cervical, thoracic and lumbar spine.

In terms of interventional treatment, the records provided are limited. He apparently received conservative treatment for the cervical, thoracic and right shoulder regions. He also received conservative treatment for his lumbar spine injury; however, I see no mention of any interventional pain treatment. The patient did progress some and eventually was reintroduced to active work duty four hours per day with work conditioning the other 4 hours. The patient was working in a light capacity and was trying to achieve moderate capability. The patient underwent a behavioral assessment on 05-20-05 at which he rated his average pain at a 6/10 and presented with moderate depression and anxiety with some interpersonal conflict due to his functional limitations. The patient also underwent an FCE evaluation on 07-01-05 and the patient was still functioning at a light duty capacity and needed to return to a work hardening program achieve a medium duty capability, per recommendations. Nonetheless, the patient continued with his localized lumbar pain without radiculopathy.

The provided diagnostics include a lumbar x-ray with bilateral facet screws at L5-S1 with posterolateral fusion graft on the right. A right shoulder post arthrogram exam dated 01-18-05 presents post surgical changes with partial rotator cuff tear and tear of the biceps, please see radiologist's report. An MRI of the cervical spine dated 01-05-05 reports disc changes more at C5-C6. Right shoulder x-ray dated 12-08-04 was negative. Right SI joint x-ray dated 12-08-04 was positive for ankylosis of the right SI joint. AP and lateral skull x-ray of 12-08-04 was unremarkable. Thoracic x-ray dated 12-08-04 was negative. Cervical spine x-ray dated 12-08-04 has some narrowing of C5-C6.

The patient was evaluated by the requesting physician, Dr. Qubty, on 04-06-05 and presented localized lumbar pain. His current medications included Cataflam, Robaxin and Talwin. His physical examination presented limitation to extension to 10 degrees with cervical limitations as well among other clinical findings. SLR was negative. His height is 5'10 and weight 220 lbs. But this office note requests a bilateral L4-L5 median nerve block, not a 2 level block.

RECORDS REVIEWED

A. General Records

- Notification of IRO Assignment dated 08-18-05
- Receipt of MDR request dated 08-18-05
- MDR form TWCC 60 dated 08-11-05
- Reconsideration denial dated 06-17-05 with Corvel letter dated 06-20-05

B. Records from the carrier

- Letter from Attorney to SIRO dated 08-25-05
- Summary of carrier's position dated 08-15-05
- MDR Request form TWCC 60 dated 08-11-05

C. Records from the doctor

- TWCC IRO Assignment dated 08-18-05
- Receipt of MDR request dated 08-18-05
- Office note from Dr. Winston Whitt, MD dated: 04-06-05
- SOAP notes by Dr. Mundheim, DC dated: 08-22-05, 01-17-05, 01-21-05, 02-04-05, 02-11-05, 02-18-05, 02-21-05, 02-22-05, 03-04-05, 03-14-05, 03-16-05, 03-21-05, 04-06-05, 04-13-05, 04-18-05, 05-06-05, 05-20-05, 05-21-05, 06-23-05, 08-01-05, 08-03-05
- Office note from Matthew Higgs, DC dated 06-29-05
- Physical therapy SOAP notes from Casey Brown, O.T. dated: 08-22-05, 01-24-05, 01-26-05, 01-28-05, 01-31-05, 02-02-05, 02-04-05, 02-07-05, 02-07-05, 02-09-05, 02-11-05, 02-14-05, 02-16-05, 02-18-05, 02-21-05, 02-24-05, 02-28-05, 03-01-05, 03-04-05, 03-15-05, 03-17-05, 03-21-05, 03-22-05, 03-24-05, 03-29-05, 03-30-05, 03-31-05, 04-05-05, 04-07-05, 04-14-05, 04-15-05, 04-19-05, 04-25-05, 04-28-05, 04-29-05, 05-02-05, 05-04-05, 05-06-05, 05-09-05, 05-11-05, 05-13-05, 05-16-05, 05-18-05, 05-19-05, 05-20-05, 05-23-05, 05-25-05, 05-26-05, 05-31-05, 06-01-05, 06-03-05, 06-06-05, 06-08-05, 06-10-05, 06-14-05, 06-20-05
- Psychological assessment dated 05-20-05 by Diane Soucy
- Office visit from Johnny Qubty, MD dated 04-06-05
- Right shoulder x-ray dated 12-08-04
- Right SI joint x-ray dated 12-08-04
- X-ray AP/lateral of skull dated 12-08-04
- X-ray thoracic spine 12-08-04
- X-ray cervical spine 12-08-04
- X-ray lumbar spine 12-08-04
- MRI cervical spine 01-05-05
- Post arthrogram MRI of right shoulder dated 01-18-05
- TWCC 73 forms dated 12-09-04, 01-07-05, 02-04-05, 03-04-05, 04-04-05, 05-06-05, 05-20-05, 07-01-05, 08-01-05
- FCE reports dated 02-07-05, 03-29-05, 07-01-05, 04-05-05
- Psychological forms for screening dated: undated, 04-05-05, 04-18-05
- Letter from Dr. Qubty, MD dated 06-15-05, appeal for procedure
- Office note from Dr. Qubty dated 04-06-05, 06-08-05

REQUESTED SERVICE

The requested service is a L4-S1 facet median nerve block.

DECISION

The reviewer disagrees with the previous adverse determination regarding the L4/5 nerve block.

The reviewer agrees with the previous adverse determination regarding the L5/S1 nerve block.

BASIS FOR THE DECISION

Unfortunately, the additional medical records have not established the medical necessity of a two-level medial nerve block L4-L5 and L5-S1 for this gentleman. This patient has a history of a lumbar fusion confirmed by recent x-ray diagnostic that shows a right posterolateral fusion at L5-S1 with bilateral facet screws. Previous to the direct impact that he received to the lumbar spine, among other areas, the patient was working a full capacity without significant limitations secondary to his history. The reviewer does not feel that his persistent lumbar pain is directly related to his mechanism of impact. He has undergone significant conservative treatment with physical therapy and medications but continues with localized lumbar pain. This having been said, the reviewer does feel that it is medically reasonable for this gentleman to be experiencing facet mediated pain at the L4-L5 level given his mechanism of impact and clinical findings; however, for the L5-S1 level to also present the same characteristics is doubtful since they are directly fused. The procedure requested in itself is diagnostic for pain generation from specific median nerve levels and can confirm the pain origination from various points. If both levels were to be tested at the same time, it would be difficult to determine the exact pain generating level and given the probability of pain origination, the L4-L5 would be the most logical level to test. If this does not provide this gentleman with a significant pain relief response, then other avenues of treatment may need to be explored and the patient reevaluated.

In addition, a secondary factor aggravating his current injury would be his weight. Weight loss should be addressed as a long term pain management goal to avoid further exacerbations. The reviewer does not feel that his weight is the main source of his lumbar pain at this time, but it does present a contributing factor for long-term maintenance.

According to ISIS guidelines and reviewed medical literature, if there is suspicion of multi-level consecutive medial nerve pain, these should be addressed independently to avoid a false-positive response and confirm multi-level pain generation with one intervention. If there is a significant mechanism of injury, the bilateral distribution at the same level may be tested on one session, but the multi-level intervention should be done independently since this procedure is primarily diagnostic and not therapeutic. The initial blocks should be done in this manner although repeat blocks can be done in one setting at multiple levels depending on the situation and patient's response to the initial diagnostic blocks.

In summary, it is the provider's responsibility to establish medical necessity in the request for treatment at this review level. In Dr. Qubty's original dictated request, he outlined treatment for medial nerve blocks at bilateral L4-L5, which I feel is medically necessary for the patient at this time since he has failed conservative treatment in regards to his lumbar pain. The reviewer does not feel that testing both levels together would provide specific diagnostic information and could lead towards a false-positive response for this gentleman, especially since movement at the L5-S1 level would be negligible in a solid fusion.

REFERENCES

- (1) Suseki, Kaoru, MD et al. *Innervation of the Lumbar Facet Joints: Origins and Functions*. Spine. 22(5): 477-485, March 1, 1997.
- (2) Bogduk, Nikolai, MD. *Practice Guidelines and Protocols: Lumbar Medial Branch Blocks*. International Spinal Injection Society.
- (3) Bogduk, N. *Diagnostic Nerve Blocks in Chronic Pain*. Best Pract Res Clin Anaesthesiol. 2002 Dec; 16(4), 565-78.
- (4) Pappas, John L., Cynthia H. Kahn and Carol Warfield. *Facet Block and Neurolysis*. Interventional Pain Management. 1996. pp 284-303.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

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

Sincerely,

Wendy Perelli, CEO

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 17787, Austin, TX 78744. The fax number is 512-804-4011. 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(u)(2).

Sincerely,

Wendy Perelli, CEO

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 8th day of September 2005

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli