

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-0361-01
Name of Patient:	
Name of URA/Payer:	Crawford and Company
Name of Provider: (ER, Hospital, or Other Facility)	Neurosurgical Associates of SA
Name of Physician: (Treating or Requesting)	Michael Barker, MD

December 20, 2005

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on the Division of Workers' Compensation Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

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Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Neurosurgical Associates of SA
Michael Barker, MD
Karl Swann, MD
Division of Workers' Compensation

CLINICAL HISTORY

RECORDS REVIEWED:

1. Notification IRO Assignment. Within it was the request for the C4 through C7 anterior cervical fusion as well as this denial, the rational for this denial and a diagnosis of a cervical radiculopathy, which Dr. Swann is using to justify this procedure.
2. Information from Neurosurgical Associates of San Antonio and this includes the neurosurgical evaluations of Dr. Swann from 5/27/03 through 10/20/05. Within this is the first recommendation for a cervical fusion on 8/19/03. Also within this packet of information is what appears to be a second opinion which includes a cursory review of the medical history and physical exam, suggesting that the patient consider a surgical procedure. There is also a report of a discogram dated 7/18/03, which proves it to be positive only at C4. Further, records in this include a pain management evaluation and subsequent description of two further epidural steroid injections performed by Daniel Kararak. Also included in this are physical medicine rehabilitation notes by Michael Barker, M.D., from 10/03 through 8/05. MRI scans are also included in this which shows that all of the discs are normal, with the exception at C6. She is noted to have a central protrusion with a lamina tear. A repeat study was performed in 6/05, showing virtually the same studies.
3. Attorney letter outlining the carrier's position dated 12/07/05.
4. Carotid Doppler which was found to be normal, 11/04/02.
5. A neurosurgical evaluation by Dr. David Dean on 2/03, recommending further conservative management. His evaluations continued until 5/03, when he recommended a CT

6. myelogram, at which point the patient transferred her care to Dr. Swann.
7. Extensive physical therapy reports from HEALTHSOUTH.
8. Physical therapy evaluations from Path to Wellness.
9. Peer review dated in January of 2005.

This is a 44-year-old woman who on ___ was in the process of working when she was involved in a motor vehicle accident. From what I gather, she was a belted driver of a vehicle that was broadsided, although the details of her accident are somewhat sketchy. Following this, she was treated with conservative management consisting of initially physical therapy, stretching, and offloading activities. She then had a series of two epidural injections. She was evaluated by a neurosurgeon, Dr. Michael Barker. After she had no substantial progress and he recommended more conservative management, she ultimately transferred her care to Carl Swann, M.D., also a neurosurgeon. She, in the course of this evaluation, was referred to physical medicine rehabilitation physicians as well as pain management physicians. She had another two epidural steroid injections without much in the way of improvement. Initially she did improve 40 to 50% with the first injection and perhaps a bit more with the second injection, however, backslid from here. Since 2003, Dr. Swann has been recommending a C4, C5, C6 anterior cervical discectomy and fusion utilizing iliac crest grafting as well as an Orion plate secondary to a discogram which was positive at the C4 level for concordant pain. A more recent discogram has been recommended; however, if it has been performed I do not have the results of this.

REQUESTED SERVICE(S)

C4, C5 and C6 fusion utilizing iliac crest strut graft as well as an Orion plate

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

This patient has indeed been through a great deal of conservative management. The only real relief she has received has been with steroid injections. The physical exams performed on this patient, particularly lately, are cursory at very best and absolutely do not support the diagnoses of a cervical radiculopathy or a cervical

myelopathy. Therefore, on neurologic grounds alone, this procedure is not warranted.

From a pain standpoint, the entire surgical procedure is based upon a discogram performed two years and four months ago which was positive only at C4. She is also noted to have a disc bulge at C6, and based upon these two bits of information, Dr. Swann wished to perform a fusion at C4, a fusion at C6 as well as at C5 as it would then become an unfused area between a superior and inferiorly fused level. Obviously discography is a procedure which is at very best controversial. In the lumbar spine, its use is supported to a modest degree in the literature. However, in the cervical spine, its use is far more controversial and should be used very sparingly. The main reason for use of discography as recommended by the North American Spine Society is to evaluate previously identified abnormal discs, previously identified either through CT myelography, plain x-rays, or preferably MRI scans. This very recommendation was also echoed by the American Association of Neurologic Surgeons in their July 2005 *Recommendations for Spine Surgery*. Thus, the evaluation of the C4 disc space, finding it to have concordant pain is not felt to be credible. Further, the disc herniation or protrusion which is as it is described at C6 was not found to reveal concordant pain. Therefore, a surgical procedure to address this abnormality at C6 would not be supported and obviously nothing needs to be done at C5, if C4 and C5 are not to be performed. As a result, I cannot recommend any of these levels to be operated upon. I would also caution Dr. Swann about the use of the three-level fusions and ask him to review the recent literature that discusses the fusion rate of multilevel cervical fusions, both with and without instrumentation.

Finally, to echo what the attorney representing the IRO company states, that the only basis that has been put forth for this patient to have spine surgery is the fact that she has not responded to conservative treatment. Obviously a lack of success for one type of treatment does not automatically mean that a different type of treatment is medically necessary. The physicians involved have not to any degree of reasonable medical necessity identified pathology which is commensurate with her degree of symptoms and this is absolutely imperative prior to a significant surgical procedure being undertaken.

Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

YOUR RIGHT TO APPEAL

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

Chief Clerk of Proceedings
Division of Workers' Compensation
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

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

In accordance with Rule 102.4(h), 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 this 21st day of December 2005.

Signature of IRO Employee: _____
Printed Name of IRO Employee: Cindy Mitchell