MATUTECH, INC.

PO Box 310069
New Braunfels, TX 78131
Phone: 800-929-9078
Fax: 800-570-9544

Notice of Independent Review Decision

DATE OF REVIEW: AUGUST 27, 2007

IRO CASE #:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE:
Lumbar laminectomy and discectomy at L4-L5 and L5-S1 with lateral mass fusion, pedicle screw fixation, and transverse lumbar interbody fusion with cages at L4-L5 and L5-S1 and two-day inpatient stay.

A DESCRIPTION OF THE QUALIFICATIONS FOR EACH PHYSICIAN OR OTHER HEALTH CARE PROVIDER WHO REVIEWED THE DECISION:
BOARD CERTIFIED ORTHOPAEDIC SURGEON

REVIEW OUTCOME
Upon independent review the reviewer finds that the previous adverse determination/adverse determinations should be:

X Overturned (Disagree)

Medical documentation supports the medical necessity of the health care services in dispute.

INFORMATION PROVIDED TO THE IRO FOR REVIEW:

- Office notes (05/22/06 – 06/18/07)
- Radiodiagnostic studies (08/18/06 – 03/26/07)
- Utilization reviews (06/20/07 – 07/02/07)

- Office notes (06/24/05 – 07/18/07)
- Therapy notes (03/16/05 – 03/18/05)
- FCE (07/12/05 – 06/08/07)
- Radiodiagnostics (04/13/05 – 03/26/07)
- Medical reviews (07/12/05 – 07/13/07)

PATIENT CLINICAL HISTORY [SUMMARY]:

This is a patient who was injured when she lifted a dolly to move it through a doorway. She felt something pop in her lower back and felt immediate discomfort which slowly worsened.

In 2005, PT was started. MRI of the lumbar spine demonstrated minimal disc bulge at L5-S1. M.D., performed a lumbar ESI. An FCE indicated the patient should be capable of at least a light PDL versus her job required medium PDL. M.D., an orthopedic surgeon, performed an RME, diagnosed probable right SI inflammation and right hip bursitis and recommended cortisone injections into these areas. He opined that the patient continued to suffer from the sequelae of her job-related injury. The prescribed medications consisted of Norco, Zanaflex and Naprosyn. D.C., an RME physician, diagnosed lumbar radicular syndrome, right sacroiliitis, and SI joint and lumbosacral segmental dysfunction. He recommended lumbar ESIs and SI joint injection in conjunction with chiropractic therapy. Consequently, Dr. administered a second lumbar ESI.

In 2006, an incomplete EMG/NCV evaluation report indicated the following: *In the days following the injury, the patient's low back pain gradually increased and she sought treatment with her primary care physician (PCP) who prescribed medication and took x-rays. MRI of the right hip revealed effusion and MRI of the lumbar spine revealed a disc bulge at L5-S1. She then underwent PT, active rehabilitation, and a WHP/WCP. Dr. performed SI joint and several epidural injections. Despite continued aggressive procedures, she had developed constant pain, numbness and tingling radiating into the right lower extremity and into the lateral side of the foot.* A post-myelogram CT of the lumbar spine showed an approximately 5-mm central/right central disc herniation at L4-L5 likely displacing the right L5 nerve root and degenerative facet arthropathy at L5-S1 and L4-L5. In October, Dr. repeated an RME and opined that future surgery might be indicated. Ongoing medications consisted of Norco, Naprosyn and Soma. An FCE demonstrated the patient to qualify at the medium PDL, meeting her job requirements. Dr. refilled medications and referred the patient to evaluate for possible surgical intervention.

In 2007, Dr. refilled medications. M.D., a neurosurgeon, recommended surgery. M.D., noted that the 2006 EMG/NCV study had shown changes consistent with an acute right S1 radiculopathy and mild left L5 radiculopathy. The patient complained of right-sided radicular leg pain radiating down into the side of the right calf and then onto the top of the right foot with some numbness and tingling in the mid and lateral right three toes. She was on Effexor, lorazepam, Soma, Vicodin, and Naprosyn. D.C., assessed statutory MMI as of March 12, 2007, and assigned 10% WPI rating. Lumbar discogram revealed partially concordant pain at L5-S1 and concordant pain at L4-L5 following needle removal. In addition, S1 lumbarization was present with a large pars defect at S1. Dr. continued Norco and Naprosyn.

In May, Dr. recommended a laminectomy with disc removal and fusion at L4-L5 and L5-S1. A second opinion physician and an RME physician both supported this view. The patient continued to qualify at the medium PDL. In June, Dr. requested lumbar laminectomy and discectomy at L4-L5 and L5-S1 with lateral mass fusion, pedicle screw fixation, and transverse lumbar interbody fusion with cases L4-L5 and L5-S1.

On June 20, 2007, the requested surgery was denied stating that: *MRI and CT myelogram showed minimal pathologic findings. Discogram is reported to show partial concordant pain at L4-L5 and L5-S1. There is a normal anatomic variant*

in the lumbar spine with sacralization/lumbarization of the lower segment. Physical examination shows limited ROM with positive straight leg raise on the right. There is decreased sensation in the lateral aspect of both feet. There is no evidence of lumbar instability reported. It would appear that the requested procedure may be too aggressive for the claimant symptom complaints, physical exam, and imaging studies. Based on the available medical documentation, the requested laminectomy and discectomy at L4-L5 and L5-S1 with lateral mass fusion pedicle screw fixation is not considered to be reasonable or medical necessary.

On July 2, 2007 the denial was upheld stating: *This lady has persistent back and leg pain and does show mildly abnormal neurological findings, but does not have any evidence of instability. Dr. has characterized the L4-L5 disc as being relatively normal. Discography did not support the necessity of fusion. With the available information, the request appears to be excessive, so it cannot be considered to be reasonable or medically necessary.*

On July 13, 2007, D.O., performed a DDE and assessed clinical MMI as of that date and assigned 10% WPI rating. As to whether the patient was a surgical candidate, Dr. recommended evaluation by a spine specialist.

ANALYSIS AND EXPLANATION OF THE DECISION INCLUDE CLINICAL BASIS, FINDINGS AND CONCLUSIONS USED TO SUPPORT THE DECISION. MS. HAS COMPLAINTS OF RADIATING PAIN TO HER RIGHT LEG IN AN L5 DISTRIBUTION AS WELL AS RADIOGRAPHIC EVIDENCE OF HNP DISPLACING THE L5 NERVE ROOT. IN ADDITION, SHE HAS CONTINUED LOW BACK PAIN WITH SIGNIFICANT FACET ARTHROPATHY. THOUGH HER DISC HEIGHTS ARE NOT SIGNIFICANTLY REDUCED, SHE IS SYMPTOMATIC DUE TO HER FACET ARTHROPATHY AS WELL AS THE L5 HNP. FAILURE OF CONSERVATIVE THERAPY IS AN INDICATION FOR HNP FOR TREATMENT OF THE L5 RADICULOPATHY AS WELL AS L4-S1 FUSION FOR THE FACET ARTHROPATHY. THE SURGERY WAS DENIED DUE TO THE LACK OF INSTABILITY OF THE LUMBAR SPINE. MS. CASE DOES NOT HINGE ON THE PRESENCE OR ABSENCE OF INSTABILITY AND THIS IS IRRELEVENT IN THE DETERMINATION. MS. IS CERTAINLY INDICATED FOR DISCECTOMY AND LUMBAR FUSION ON THE BASIS OF HER CONTINUED SYMPTOMS AND FAILURE OF CONSERVATIVE TREATMENT.

A DESCRIPTION AND THE SOURCE OF THE SCREENING CRITERIA OR OTHER CLINICAL BASIS USED TO MAKE THE DECISION:

X MEDICAL JUDGEMENT, CLINICAL EXPERIENCE AND EXPERTISE IN ACCORDANCE WITH ACCEPTED MEDICAL STANDARDS

X ODG- OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES