

## Notice of Independent Review Decision

### DATE OF REVIEW:

02/14/2008/AMENDED 02/18/2008

### IRO CASE #:

### DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

Posterior lumbar fusion.

### 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: **Upheld**

Provide a description of the review outcome that clearly states whether or not medical necessity exists for each of the health care services in dispute.

**The requested posterior lumbar fusion is not medically necessary.**

### INFORMATION PROVIDED TO THE IRO FOR REVIEW

- : Case Report dated 02/06/08
- Referral dated 02/06/08
- DWC: Notice To, LLC Of Case Assignment dated 02/04/08
- DWC: Notice Of Assignment Of Independent Review Organization dated 02/04/08
- DWC: Notice To Utilization Review Agent Of Assignment dated 02/04/08
- Letter dated 02/04/08
- DWC: Confirmation Of Receipt Of A Request For A Review dated 02/01/08
- Solutions: Prospective/Concurrent Review Determinations dated 01/30/08, 01/24/08
- LHL009: Request For A Review By An Independent Review Organization dated 01/28/08
- M.D.: Letter dated 01/23/08
- M.D.: Medical Conference Note dated 01/23/08
- M.D.: Follow Up notes dated 01/17/08, 12/27/07
- DNI: Lumbar myelogram and CT dated 01/09/08, lumbar discogram and CT dated 12/18/07
- D.O.: Letter of Clarification dated 10/11/07
- Review Med: Medical Record Review dated 10/04/07 from, M.D.
- M.D.: Office visit notes dated 06/22/07, 05/02/07, 03/08/07, 10/30/06, 10/19/06
- Evaluations dated 06/07/07, 12/12/06 from, Psy.D
- DWC-69: Reports of Medical Evaluation dated 05/10/07, 08/31/06
- D.O.: Designated Medical Examinations dated 05/10/07, 08/31/06
- Associates: MRI right knee dated 10/23/06

- M.D.: Office visit note dated 10/23/06
- M.D.: Letters dated 05/17/06, 03/24/06
- M.D.: Radiology Report dated 03/22/06
- Solutions: Undated report from, RN
- Undated medical review for Claim #
- Undated list of Healthcare Providers
- Undated ODG Guidelines for Lumbar Spinal Fusion

### **PATIENT CLINICAL HISTORY [SUMMARY]:**

The injured individual is a xx year-old female who was employed as a xxxx for xxxxxx. She was reported to have sustained an injury to her back while assisting a patient on xx/xx/xx. Her past medical history is significant for a history of two prior back surgeries, which were a result of another work incident. The second spine procedure was an L4-L5 360 fusion performed in 07/2000 by Dr. She has undergone extensive evaluation and treatment since the xx/xx/xx work-related incident to include lumbar epidural steroid injections (ESIs), facet injections, chronic pain evaluation, medications, work conditioning and individual psychotherapy with continuing complaints. She has not returned to work in any capacity. She has been under the care of Dr. (Neuro) and Dr. (Pain). She began seeing M.D. (Neurosurgeon) in 2006 and followed for chronic back pain. Repeat imaging studies has documented evidence of multiple level degenerative disc disease. Lumbar myelogram with CT scan on 01/09/2008 revealed L4-L5 fixation is about 7mm anterolisthesis, probably confluent with no excursion on the flexion-extension views. Marked central stenosis with a partial block to contrast transit at L3-L4 related to a very large left intraspinal synovial cyst associated with the left L3-L4 facet joint, annular bulging and facet and ligamentous hypertrophy. There is anterolisthesis on weight bearing at L3-L4, worse in flexion. A 1mm diffuse disc protrusion is present at L5-S1. Discogram on 12/18/2007 noted disruption of the L3-L4 and L5-S1 discs with severe pain concordant for two somewhat different components from both. This is not the classically positive discogram. Dr. has recommended to the injured individual the requested procedure (extending her fusion one level above and one level below her previous fusion). The injured individual had been previously placed at maximum medical improvement (MMI) by Dr. on 05/10/2007 with a 5% impairment rating.

### **ANALYSIS AND EXPLANATION OF THE DECISION INCLUDE CLINICAL BASIS, FINDINGS AND CONCLUSIONS USED TO SUPPORT THE DECISION.**

The etiology of back pain is multifactorial. The injured individual is a xx year old morbidly obese (5'6"-255 pounds) female with a long history of back problems. Her past medical history is significant for two prior back procedures following another work-related injury. She sustained another injury on xx/xx/xx over 30 months ago. She has undergone extensive evaluation and treatment by multiple physicians without any objective evidence of sustained clinical improvement. She has not returned to work in any capacity. Treatment has included injections, psychotherapy, work conditioning and medications. The Official Disability Guidelines urges caution in particular for Worker's Compensation claimants.

Lumbar fusion in workers' comp patients: In cases of workers' compensation, patient outcomes related to fusion may have other confounding variables that may affect overall success of the procedure, which should be considered. Until further research is conducted there remains insufficient evidence to recommend fusion for chronic low back pain in the absence of stenosis and spondylolisthesis, and this treatment for this condition remains "under study." It appears that workers'

compensation populations require particular scrutiny when being considered for fusion for chronic low back pain, as there is evidence of poorer outcomes in subgroups of patients who were receiving compensation or involved in litigation. ([Fritzell-Spine, 2001](#)) ([Harris-JAMA, 2005](#)) ([Maghout-Juratli, 2006](#)) ([Atlas, 2006](#)) Despite poorer outcomes in workers' compensation patients, utilization is much higher in this population than in group health. ([Texas, 2001](#)) ([NCCI, 2006](#)) Presurgical biopsychosocial variables predict patient outcomes from lumbar fusion, which may help improve patient selection. Workers' compensation status, smoking, depression, and litigation were the most consistent presurgical predictors of poorer patient outcomes. Other predictors of poor results were number of prior low back operations, low household income, and older age. ([DeBerard-Spine, 2001](#)) ([DeBerard, 2003](#)) ([Deyo, 2005](#)) ([LaCaille, 2005](#)) ([Trief-Spine, 2006](#)) Obesity and litigation in workers' compensation cases predict high costs associated with interbody cage lumbar fusion. ([LaCaille, 2007](#)) A recent study of 725 workers' compensation patients in Ohio who had lumbar fusion found only 6% were able to go back to work a year later, 27% needed another operation, and over 90% were in enough pain that they were still taking narcotics at follow-up. ([Nguyen, 2007](#))

**Pre-Operative Surgical Indications Recommended:** Pre-operative clinical surgical indications for spinal fusion should include all of the following: (1) All pain generators are identified and treated; & (2) All physical medicine and manual therapy interventions are completed; & (3) X-rays demonstrating spinal instability and/or myelogram, CT-myelogram, or discography (see [discography criteria](#)) & MRI demonstrating disc pathology; & (4) Spine pathology limited to two levels; & (5) [Psychosocial screen](#) with confounding issues addressed. (6) For any potential fusion surgery, it is recommended that the injured worker refrain from smoking for at least six weeks prior to surgery and during the period of fusion healing. ([Colorado, 2001](#)) ([BlueCross BlueShield, 2002](#))

This injured individual is a smoker and morbidly overweight as documented in the medical record. Dr. a psychologist, has documented significant psychological variables and on 06/07/2007 felt she was not a good surgical candidate. LPC has recently opined on 08/07/2007 that now she may be a surgical candidate but his reasoning is unclear. Psychological testing has clearly documented evidence of symptom exaggeration. The injured individual has evidence of multiple levels of disease to include other spine areas (thoracic) as well as the lumbar spine. Dr. has noted she has two levels of disease, but in fact that is incorrect. The injured individual has already had disease defined at one level (L4-L5) and now he wants to fuse the L3-L4 and L5-S1 levels for a total of three levels. It is still unclear what her exact pain generators are. Her back pain upon record review appears to be her predominant complaint.

In cases of workers' compensation, patient outcomes related to fusion may have other confounding variables that may affect overall success of the procedure, which should be considered. There is a lack of support for fusion for mechanical low back pain for subjects with failure to participate effectively in active rehabilitation pre-operatively, total disability over six months, active psychiatric diagnosis, and narcotic dependence.

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

- **ODG- OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES**