

SENT VIA EMAIL OR FAX ON  
May/18/2009

## True Resolutions Inc.

An Independent Review Organization  
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**DATE OF REVIEW:**  
May/18/2009

**IRO CASE #:**

**DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE:**  
Inpatient Admission with 2 day length of stay for Examination Under Anesthesia, Lumbar Laminectomy, Disectomy at L4/5, S1, Arthrodesis with Cages, Posterior Instrumentation at L5/S1.

**DESCRIPTION OF THE QUALIFICATIONS FOR EACH PHYSICIAN OR OTHER HEALTH CARE PROVIDER WHO REVIEWED THE DECISION:**  
Board Certified Orthopedic Surgeon

**REVIEW OUTCOME:**

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

- Upheld (Agree)  
 Overturned (Disagree)  
 Partially Overturned (Agree in part/Disagree in part)

**INFORMATION PROVIDED TO THE IRO FOR REVIEW**

OD Guidelines  
Office note, Dr. 10/17/08  
EMG/NCS, 11/12/08  
MRI, 11/19/08  
Office notes, Dr., 12/02/08, 02/17/09, 03/31/09  
Office note, Dr., 12/17/08  
Psych screening, 01/17/09  
RME, Dr., 02/17/09  
Discogram, 03/23/09  
Peer review, 04/09/09, 04/22/09  
Mutual, 04/09/09, 04/23/09

**PATIENT CLINICAL HISTORY SUMMARY**

The claimant is a female injured on xx-xx-xx. She was seen on 10/17/08 for back pain, neck pain and bilateral upper extremity pain. She was referred for therapy and pain management. It is unclear whether she actually had therapy for her low back.

The 11/12/08 EMG/NCS showed right sural sensory neuropathy and acute/ongoing L4 and 5 radiculopathy. An 11/19/08 MRI documented an L3-4 posterolateral herniation on the right

with mild right neural canal narrowing and Schmorl's nodes bilaterally. There was an L4-5 posterior right paracentral and lateral disc protrusion with right posterolateral and lateral annulus tear and mild right neural canal narrowing. An L5-S1 mild posterior protrusion was seen.

On 12/02/08, Dr. saw the claimant for back and bilateral leg pain, right more than left. His review of the MRI noted an L4-5 herniation at stage II with annular herniation, nuclear protrusion and disc desiccation; at L5-S1 was a contained disc herniation stage II with annular herniation and nuclear protrusion. X-rays with flexion/extension revealed that L5-S1 had a grossly abnormal extension angle at 21 degrees that corrected in flexion to 0. At L4-5 there was an extension angle of 3 degrees and 0 degrees with flexion per Dr. He noted there was a positive Flip test, Lasegue's and Bragard's. He documented a decrease in the knee and ankle jerk on the right and absent posterior tendon jerks bilaterally. There was paresthesia at L5 and S1 on the right. He reported a positive extensor lag and sciatic notch test on the right. There was reportedly mild right gastrocnemius weakness and positive spring test at L4-5 and L5-S1. He requested a discogram for fusion.

The claimant was seen on 12/17/08 by Dr. pain management, for unremitting low back pain. On his examination strength was 5/5 and reflexes 2 plus. She had a normal gait, normal motion and no spasm. There was facet tenderness L3-5. Straight leg raise was positive bilaterally at 45 degrees. Dr. also recommended a discogram, Darvocet and Valium.

On 01/17/09 a psychological screening felt the claimant had a good prognosis for surgery but went on to note she would need postoperative counseling.

The claimant was seen on 02/17/09 by Dr. for a Required Medical Examination. She was taking Darvocet and muscle relaxers. He reported that the 10/21/08 x-rays showed no fracture but there was osteoarthritis of the posterior elements. The claimant's complaints were low back pain and pain in the neck and arms. On examination there was a normal gait. She was able to toe and heel walk. There was low back pain with axial compression. Straight leg raise supine was 5 degrees on the right and 10 degrees on the left. Straight leg raise seated was 90 degrees bilaterally. There was normal sensation; reflexes 3 plus and normal strength. She had 4 of 8 Waddell's. Dr diagnosed the claimant with chronic low back pain, recommended home exercise, anti-inflammatory medication, and expected full recovery in 6 weeks.

A 03/23/09 discogram documented that L2-3 was normal. L3-4 was non-concordant. At L4-5 was an annular tear with extravasation but pain was negative. L5-S1 was also negative.

On 03/31/09 Dr. noted the claimant had pain at L4-5 that was non-concordant and that L5-S1 was negative. He felt she needed L5-S1 decompression and fusion for instability.

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

Requested procedure noted is not indicated and appropriate.

The medical records reflect instability with mobility at one segment at 21 degrees, a psychiatric screen on 01/17/09, which demonstrates good prognosis for surgery; approximately just over six months post injury.

EMG/NCS demonstrates L4-5 radiculopathy, acute and ongoing. MRI, however, demonstrates posterolateral disc herniation on the right at L3-4 and L4-5 disc herniation. However, the surgical request does not address any L3-4 pathology.

In addition to this, the requested medical evaluation by Dr. on 02/17/09 demonstrates 4/8 Waddell's signs. Based upon this information, there is conflicting data within the records reviewed. Consideration of a peer-to-peer review may be necessary to delineate the complexity of this case. However, with this conflicting information, surgery is not indicated

and appropriate.

## Official Disability Guidelines Treatment in Worker's Comp 2009 Low Back Fusio

Not recommended for patients who have less than six months of failed recommended conservative care unless there is objectively demonstrated severe structural instability and/or acute or progressive neurologic dysfunction, but recommended as an option for spinal fracture, dislocation, spondylolisthesis or frank neurogenic compromise, subject to the selection criteria outlined in the section below entitled, "Patient Selection Criteria for Lumbar Spinal Fusion," after 6 months of conservative care.

### Patient Selection Criteria for Lumbar Spinal Fusion

For chronic low back problems, fusion should not be considered within the first 6 months of symptoms, except for fracture, dislocation or progressive neurologic loss. Indications for spinal fusion may include: (1) Neural Arch Defect - Spondylolytic spondylolisthesis, congenital neural arch hypoplasia. (2) Segmental Instability (objectively demonstrable) - Excessive motion, as in degenerative spondylolisthesis, surgically induced segmental instability and mechanical intervertebral collapse of the motion segment and advanced degenerative changes after surgical discectomy. [For excessive motion criteria, see AMA Guides, 5th Edition, page 384 (relative angular motion greater than 20 degrees). (Andersson, 2000) (Luers, 2007)] (3) Primary Mechanical Back Pain (i.e., pain aggravated by physical activity)/Functional Spinal Unit Failure/Instability, including one or two level segmental failure with progressive degenerative changes, loss of height, disc loading capability. 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 rehab pre-op, total disability over 6 months, active psych diagnosis, and narcotic dependence. [For spinal instability criteria, see AMA Guides, 5th Edition, page 379 (lumbar inter-segmental movement of more than 4.5 mm). (Andersson, 2000)] (4) Revision Surgery for failed previous operation(s) if significant functional gains are anticipated. Revision surgery for purposes of pain relief must be approached with extreme caution due to the less than 50% success rate reported in medical literature. (5) Infection, Tumor, or Deformity of the lumbosacral spine that cause intractable pain, neurological deficit and/or functional disability. (6) After failure of two discectomies on the same disc, fusion may be an option at the time of the third discectomy, which should also meet the ODG criteria. (See ODG Indications for Surgery -- Discectomy

AMA Guides Edition 5 chapter 15 table 15-3 which is found on page 384. This would include or define it as evidence on flexion extension radiographs at least four in a half millimeters as translation one vertebra another or angular motion greater than 15 degrees at L1-2, L2-3, L3-4, and greater than twenty degrees, to L4-5 and greater than twenty five degrees at L5-S1

Milliman Care Guidelines 13th Edition, Inpatient and Surgical Care

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

[ ] ACOEM-AMERICA COLLEGE OF OCCUPATIONAL & ENVIRONMENTAL MEDICINE UM KNOWLEDGEBASE

[ ] AHCPR-AGENCY FOR HEALTHCARE RESEARCH & QUALITY GUIDELINES

[ ] DWC-DIVISION OF WORKERS COMPENSATION POLICIES OR GUIDELINES

[ ] EUROPEAN GUIDELINES FOR MANAGEMENT OF CHRONIC LOW BACK PAIN

INTERQUAL CRITERIA

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

MERCY CENTER CONSENSUS CONFERENCE GUIDELINES

MILLIMAN CARE GUIDELINES

ODG-OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES

PRESSLEY REED, THE MEDICAL DISABILITY ADVISOR

TEXAS GUIDELINES FOR CHIROPRACTIC QUALITY ASSURANCE & PRACTICE PARAMETERS

TEXAS TACADA GUIDELINES

TMF SCREENING CRITERIA MANUAL

PEER ERVIEWED NATIONALLY ACCEPTED MEDICAL LITERATURE (PROVIDE A DESCRIPTION)

OTHER EVIDENCE BASED, SCIENTIFICALLY VALID, OUTCOME FOCUSED GUIDELINES (PROVIDE A DESCRIPTION)