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One Sansome Street, Suite 600
San Francisco, CA 94104-4448

415.677.2000 Phone
415.677.2195 Fax
www.lumetra.com

Notice of Independent Review Decision

DATE OF REVIEW: 11/30/09

IRO CASE #:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

Lumbar Laminectomy with fusion and instrumentation L4-5, purchase TLSO back brace,
Length of stay 1 night

A DESCRIPTION OF THE QUALIFICATIONS FOR EACH PHYSICIAN OR OTHER HEALTH CARE PROVIDER WHO REVIEWED THE DECISION

Certified by the American Board of Neurological Surgery

REVIEW OUTCOME

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

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

Injury date	Claim #	Review Type	ICD-9 DSMV	HCPCS/ NDC	Upheld/ Overturned
		Prospective			Upheld

INFORMATION PROVIDED TO THE IRO FOR REVIEW

Correspondence throughout appeal process, including first and second level decision letters, reviews, letters and requests for reconsideration, and request for review by an independent review organization.

Physician notes from 12/28/06 through 10/15/09

Physician letters dated 7/1/09, 11/20/06, 5/18/06, 3/9/06

Psychological Evaluation 2/27 & 4/8/09

Operative reports dated 4/18/08, 2/22/08, 3/21/06, 2/21/06, 2/9/06

X-ray report dated 2/22/08, 1/21/08, 10/3/07, 6/18/07, 3/12/07, 12/28/06, 3/21/06

Partial medical records for dates of service 12/6/06-12/7/06

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Official Disability Guidelines cited but not provided-Low Back Selection Criteria for Lumbar Spinal Fusion

PATIENT CLINICAL HISTORY:

This patient reportedly was injured on xx/xx/xx when lifting heavy objects with sudden onset of severe low back pain and bilateral hip and leg pain worse on the left. After failing to improve with a course of conservative treatment, the patient underwent decompressive laminectomy and fusion of the L5-S1 level.

Post operative x-rays showed solid fusion at L5-S1, both interbody and posterolateral, normal alignment. The patient subsequently reported some increased low back pain and bilateral hip and leg pain particularly on the left side. CT myelogram of the lumbar spine dated 02/22/08 reported post operative changes present at L5-S1 with no hardware complications. Alignment of the lumbar spine was normal. The spinal canal was maintained. There is no spinal stenosis or neural foraminal narrowing and there was no fracture or focal bone lesion present. Disc spaces showed normal height but no evidence of significant degenerative change. The facet joints have minimal degenerative changes, and no soft tissue abnormality was visible. The patient underwent psychological evaluation on 02/27/09 and 04/08/09 and was determined to be a suitable candidate for spinal cord stimulator.

Progress note dated 09/17/09 noted the patient has increasing severe low back pain and bilateral radiating hip and leg pain with weakness in bilateral foot and great toe dorsiflexion. On examination the patient is noted to walk with a flexed posture to the low back. Straight leg raise was positive at less than 45 degrees. Mechanical low back pain was noted to be as severe as hip and leg pain. The patient was recommended to undergo lumbar laminectomy with fusion instrumentation at L4-5 with purchase of TLSO back brace and 1 day inpatient stay.

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

In the Reviewer's opinion, the request for lumbar laminectomy and fusion and instrumentation at L4-5 with purchase of TLSO back brace and one night length of stay is not supported as medically necessary based on the clinical information provided. The patient is noted to have sustained lifting injury to low back in xx/xx. The patient underwent L5-S1 decompression and fusion with instrumentation on 12/06/06. The patient continues to have subjective complaints of low back pain with pain radiating to bilateral hips and legs. The patient also has subjective complaints of weakness of bilateral foot and great toe dorsiflexion, but there is no evidence of motor or sensory deficits on clinical examination. Most recent imaging study reported postoperative changes at L5-S1 level with no hardware complications and normal alignment of lumbar

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spine. There is no objective evidence of a surgical lesion at L4-5 level and no evidence of instability at any level of lumbar spine. The patient underwent psychological evaluation in 04/2009 at which time he was determined to be appropriate candidate for spinal cord stimulator; however, there is no indication the patient has had preoperative psychological evaluation addressing confounding issues of lumbar fusion surgery.

REFERENCE:

2009 Official Disability Guidelines, 14th edition, Work Loss Data Institute, Online Edition, Low Back Chapter.

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.](#))

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

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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](#))

Back brace, post operative (fusion)

Under study, but given the lack of evidence supporting the use of these devices, a standard brace would be preferred over a custom post-op brace, if any, depending on the experience and expertise of the treating physician. There is conflicting evidence, so case by case recommendations are necessary (few studies though lack of harm and standard of care). There is no scientific information on the benefit of bracing for improving fusion rates or clinical outcomes following instrumented lumbar fusion for degenerative disease. Although there is a lack of data on outcomes, there may be a tradition in spine surgery of using a brace post-fusion, but this tradition may be based on logic that antedated internal fixation, which now makes the use of a brace questionable. For long bone fractures prolonged immobilization may result in debilitation and stiffness; if the same principles apply to uncomplicated spinal fusion with instrumentation, it may be that the immobilization is actually harmful. Mobilization after instrumented fusion is logically better for health of adjacent segments, and routine use of back braces is harmful to this principle. There may be special circumstances (multilevel cervical fusion, thoracolumbar unstable fusion, non-instrumented fusion, mid-lumbar fractures, etc.) in which some external immobilization might be desirable. ([Resnick, 2005](#))

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

- ACOEM- AMERICAN 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**

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- 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 REVIEWED NATIONALLY ACCEPTED MEDICAL LITERATURE (PROVIDE A DESCRIPTION)**
- OTHER EVIDENCE BASED, SCIENTIFICALLY VALID, OUTCOME FOCUSED GUIDELINES (PROVIDE A DESCRIPTION)**