

# **INDEPENDENT REVIEWERS OF TEXAS, INC.**

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## Notice of Independent Review Decision

**DATE OF REVIEW:** 07/19/10

**IRO CASE NO.:**

**DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE:**

Item in dispute: 63030 Lumbar Laminectomy, Discectomy, Foraminotomy, and Partial Facetectomy @L5-S1, 63035 Lumbar Disc Surgery, Add-on, 77002 Needle Localization by X-Ray

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

Texas Board Certified Neurosurgeon

**REVIEW OUTCOME**

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

Denial Upheld

**INFORMATION PROVIDED TO THE IRO FOR REVIEW**

1. Clinical note, dated 12/13/01 and 12/01/02, Dr.
2. Electrodiagnostic study, dated 01/03/02
3. MRI of the lumbar spine, dated 01/03/02
4. Clinical note, Dr., dated 01/10/02
5. Procedure report, dated 01/16/02
6. Clinical note, Dr., dated 02/11/02 and 02/21/02
7. Procedure report, dated 02/27/02 and 03/13/02
8. Clinical note, dated 03/18/02, Dr.
9. Functional Capacity Evaluation, dated 03/19/02
10. Clinical note, Dr., dated 03/22/02
11. Operative report, dated 04/02/02
12. Clinical note, Dr., dated 04/22/02
13. Clinical note, Dr., dated 04/24/02
14. Opinion report, Dr., undated
15. Clinical report, Dr., dated 05/10/02
16. CT myelogram of the lumbar spine, dated 05/30/02
17. Clinical report, Dr., dated 06/05/02
18. Clinical note, Dr., dated 06/06/02
19. Required Medical Examination, dated 07/12/02
20. Clinical note, Dr., dated 08/09/02
21. Clinical note, Dr., dated 08/12/02 through 10/28/02
22. Utilization review report dated 11/05/02

23. Clinical note, Dr., dated 11/21/02 and 12/09/02
24. Utilization review report, dated 12/10/02 through 04/17/03
25. Functional Capacity Evaluation, dated 12/17/02
26. Clinical note, Dr., dated 12/23/02 and 02/11/03
27. Mental health evaluation, dated 02/20/03
28. MRI of the hips, dated 03/03/03
29. TWCC-69 report medical evaluation, dated 03/27/03
30. Evaluation of permanent impairment, dated 03/20/03
31. Clinical note, Dr., dated 04/03/03
32. Bone scan, dated 04/05/03
33. CT of the abdomen, dated 04/08/03
34. CT of the pelvis, dated 04/08/03
35. Summary of hospital course, dated 04/08/03
36. Laboratory reports, dated 04/08/03
37. Follow-up evaluation by Dr., dated 04/11/03 and 04/29/03
38. Peer review by Dr., dated 06/12/03
39. Addendum for Dr., dated 07/01/03 and 06/08/03
40. TWCC-69 report of medical evaluation, dated 08/11/03
41. Designated Doctor Examination, dated 08/11/03
42. Evaluation by Dr., dated 08/14/03
43. Psychiatric diagnostic interview, dated 10/03/03
44. Clinical report, Dr., dated 11/07/03
45. Clinical note, Dr., dated 11/17/03
46. Physical therapy evaluation, dated 11/17/03
47. Letter of clarification, dated 11/19/03
48. Clinical note, Dr., dated 12/05/02
49. Clinical note, Dr., dated 12/23/03
50. Rehabilitation discharge summary notes, dated 01/02/04
51. Clinical note, Dr., dated 01/06/04
52. Clinical note, Dr., dated 03/02/04
53. Clinical note, Dr., dated 07/13/04
54. Clinical note, Dr., dated 11/09/04
55. Clinical note, Dr., dated 12/14/04
56. Clinical note, DC, dated 03/01/05
57. Clinical note, Dr., dated 01/05/05
58. Clinical note, Dr., dated 01/31/05
59. Clinical note, Dr., dated 10/04/06
60. Clinical note, Dr., dated 03/01/07
61. Clinical note, DC, dated 03/01/07
62. Behavioral medicine consultation, dated 03/05/07
63. Physical performance evaluation, dated 03/09/07
64. Clinical note, Dr., dated 03/15/07 through 07/17/07
65. Emergency room medical record, dated 08/10/07
66. Clinical note, Dr., dated 08/17/07 through 10/19/07
67. MRI of the lumbar spine, dated 11/06/07
68. Clinical note, Dr., dated 11/19/07 through 12/20/07
69. Procedure note, dated 11/20/07
70. Clinical note, Dr., dated 03/01/08
71. Radiographs of the lumbar spine, dated 01/03/08

72. Behavioral medicine evaluation, dated 01/07/08
73. Clinical note, Dr., dated 01/07/08
74. Clinical note, Dr., dated 01/18/08
75. Clinical note, Dr., dated 02/15/08
76. Clinical note, Dr., dated 02/18/08
77. Clinical note, Dr., dated 03/17/08
78. Clinical note, Dr., dated 03/18/08
79. Clinical note, Dr., dated 04/21/08
80. Clinical note, Dr., dated 04/24/08
81. Clinical note, Dr., dated 05/21/08
82. Clinical note, Dr., dated 06/23/08 through 08/18/08
83. Physical assessment evaluation treatment plan, dated 08/22/08
84. Clinical note, Dr., dated 10/13/08 through 02/05/09
85. Clinical note, Dr., dated 02/25/09
86. Clinical note, Dr., dated 03/05/09
87. Behavioral medicine evaluation, dated 04/02/09
88. Behavioral note, Dr., dated 04/02/09
89. Behavioral evaluation, dated 04/02/09
90. Clinical note, Dr., dated 04/03/09
91. Appeal letter, dated 05/14/09
92. Clinical note, Dr., dated 05/19/09
93. Clinical note, Dr., dated 05/28/09 through 06/25/09
94. Request for IRO, dated 07/27/09
95. Clinical note, Dr., dated 07/23/09 through 08/20/09
96. Physical assessment evaluation treatment plan, dated 09/02/09
97. Request for reconsideration, dated 09/14/09
98. Clinical note, Dr., dated 09/16/09
99. Clinical note, Dr., dated 09/23/09
100. Clinical note, Dr., dated 10/15/09 through 03/04/10
101. Clinical note, Dr., dated 03/14/10
102. Clinical note, Dr., dated 04/29/10
103. Letter of medical necessity, dated 05/05/10
104. Pre-authorization review decision, dated 07/30/09
105. Notice of independent review decision, dated 10/22/09
106. Utilization review report, dated 06/02/10 and 06/15/10

**PATIENT CLINICAL HISTORY (SUMMARY):**

The patient is a female who initially sustained injury on xx/xx/xx while lifting boxes. The patient reported pain in the lumbar spine. Imaging studies performed in January of 2002 revealed disc bulging at L5-S1 and electrodiagnostic studies demonstrated L5-S1 radiculopathy. Bone scans and CT of the pelvis were both unremarkable. The patient was noted to have had hernia surgery and inguinal repair on 04/02/02. The patient was placed at maximum medical improvement as of 03/20/03. The patient had also been followed for significant depression and was also referred for chronic pain management in 2003. The patient completed a chronic pain management by 2004, but continued to have severe pain radiating to the lower extremities. The patient began seeing Dr. until 03/01/07. The patient reported complaints of pain radiating to the low back into the lower extremities. At this point in time, the patient reported taking no medications. Physical examination was fairly unremarkable, and the patient was prescribed Norco and Soma and was referred to Dr. for evaluation and consultation. A psychological evaluation performed on 3/5/07

recommended psychological treatment. The patient was recommended for updated MRI studies by Dr., and MRI of the lumbar spine were performed on 11/06/07 revealed a 4 mm central disc protrusion and herniation at L5-S1, with diffuse disc bulging pronounced more right. Mild left and mild right foraminal stenosis was present along with canal stenosis. Dr. referred the patient to Dr. on 01/03/08. The patient reported mainly low back symptoms and mild right symptoms. The patient was reported to have a one-half-pack a month cigarette habit. Physical examination revealed tenderness to palpation along the lumbar spine with severe sciatic notch present. Significant restrictions in range of motion in forward flexion and extension were noted. Lasegue's test was positive to the right. Sensation to light touch was slightly decreased in the left lateral thigh. Reflexes were symmetric and mild weakness was noted at the right extensor hallucis longus was noted compared to the left. Radiographs, flexion/extension views, taken in clinic were stated to show decreased disc space height at L5-S1 with "stiffness noted on flexion/extension views." The radiologist's report by Dr. stated that there was no significant listhesis on flexion/extension views, and there was disc space narrowing at L5-S1 that was mild. An updated behavioral medicine evaluation performed on 01/07/08 recommended additional cognitive therapy. A clinical note by Dr. dated 01/08/08 recommended epidural steroid injections. A follow up with Dr. on 02/15/08 recommended L5-S1 anterior and posterior instrumented fusion. The request for L5-S1 fusion was denied, and Dr. stated on 03/18/08 clinical note that the patient did have severe degenerative changes at L5-S1 and was psychologically cleared for surgery. A repeat behavioral medicine evaluation dated 04/02/09 indicated the patient continued to have significant psychological distress manifested by symptoms of depression, suicidal ideations, anxiety, fear, and avoidance of activity. The patient was recommended for cognitive therapy to decrease depression symptoms. The patient continued to be seen routinely through 2009 for medicine refills. The patient was evaluated by Dr. on 09/23/09. Clinical note stated the patient had no relief with any physical therapy or epidural steroid injections. Medications at this visit included Soma, gabapentin, peroxitine, and alprazolam. The patient continued to have results for smoking, less than one-half per day. Physical examination revealed decreased strength in the gastrocnemius muscles to the left, with an antalgic gait present. The patient also reported difficulty with toe walking and some difficulty with heel walking. The patient was updated with a CT of the lumbar spine to evaluate stenosis at L5-S1. It appeared that updated myelography was denied by utilization review. Follow up with Dr. on 04/13/10 stated the patient continued to have no improvement with symptomatology and continued to have pain in the low back radiating to the lower extremities, left worse than right. Range of motion was decreased on physical examination with mild weakness on gastrocnemius muscles on the left. The patient continued to have an antalgic gait, and there was hypesthesia present in the left S1 distribution to the left. The patient was recommended for lumbar laminectomy, discectomy, foraminotomy, and partial facetectomy at L5-S1. Clinical note by Dr. on 04/29/10 indicated the patient continued to have pain in the low back radiating to the lower extremities. The patient continued to have a smoking habit; however, the patient stated that she was attempting to quit smoking. Physical examination revealed she had an antalgic gait utilizing a cane and brace. Range of motion was restricted on flexion/extension. The patient's medications included Soma, Xanax, Paxil, and Norco was refilled. Utilization review dated 06/02/10 found the requested lumbar laminectomy, discectomy, foraminotomy, and partial facetectomy at L5-S1 was not certified. A second utilization on 06/15/10 found the requested lumbar laminectomy, discectomy, foraminotomy, and partial facetectomy at L5-S1 to not be medically necessary. The reviewer opined that the patient was not a surgical candidate as there was no clinical presentation of consistent radiculopathy and imaging studies were dated.

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

The body of the clinical documentation provided for review indicates the patient was seen for continued chronic pain for an injury sustained in. The most updated imaging studies provided for review are still several years' old and revealed mild foraminal stenosis and canal stenosis only. Most recent physical examinations failed to demonstrate any continuing lumbar radiculopathy that would reasonably be improved with the requested surgical procedures. Additionally, there are several psychological evaluations that would indicate the patient has several co-morbid factors for poor outcome for lumbar surgery, to include depression, anxiety, and suicidal ideation. As such, medically necessity had not been established based on the clinical documentation provided.

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

1. **Official Disability Guidelines**, Online Version, Low Back Chapter.