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**NOTICE OF INDEPENDENT REVIEW DECISION**

**DATE OF REVIEW:** May/21/2012

**IRO CASE #:**

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

inpatient for L4-S1 360 Mini Fusion, length of stay times three

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

M.D., Board Certified Orthopedic Surgery

**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**

Official Disability Guidelines

Request for IRO dated 05/03/12

Utilization review determination dated 03/19/12

Utilization review determination dated 04/15/12

MRI lumbar spine dated 09/22/10

Clinical records dated 12/03/10-04/27/12

Peer review dated 01/07/11

Psychiatric evaluation dated 03/02/11

IRO case number xxxxx

Designated doctor evaluation dated 04/05/12

**PATIENT CLINICAL HISTORY SUMMARY**

The claimant is a male who is reported to have sustained work related injuries to his low back as result of stepping into a hole while exiting his vehicle on xxxxxx. He was referred for MRI of lumbar spine on 09/22/10. This study notes a small central disc herniation at L4-5 with questionable impingement of nerve root on right. There is minimal bulging degenerative disc centrally at L5-S1 without impingement.

On 12/03/10 the claimant was evaluated by. It was reported on the date of injury he stepped out of his truck and into a deep hole. This caused him to jar his back. He had immediate development of pain in his low back radiating down his legs. He is reported to have tried physical therapy with no improvement. Testing included x-rays, MRI scan and EMG/NCV. He is noted to be a two pack a day smoker for past 25 years. Physical examination indicates he is 5'10" tall and weighs 185 lbs. He has normal gait pattern, normal tandem gait pattern, and he can stand on his toes, has difficulty standing on heels. He is reported to have weakness in lower extremities causing his feet to drop. There is decreased sensation about the L5 and S1 dermatomes bilaterally. Strength testing in lower extremities shows 4/5 strength with EHL dorsiflexion bilaterally, 4+/5 with plantar flexion bilaterally. He is reported to have positive straight leg raise. Pain with flexion and extension and tenderness about the L4-5 and L5-S1 bilaterally was noted. The claimant was subsequently recommended to undergo

epidural steroid injections.

On 01/07/11 peer review was performed by. opines the claimant sustained lumbar strain. He noted presence of radiculopathy is suggested by history but not confirmed on EMG/NCV. He notes the claimant has evidence of degenerative disc disease. He opines disc bulge at L5-S1 was not aggravated by work place event.

On 02/14/11 the claimant was seen in follow-up by. He continued to have low back pain. Physical examination is grossly unchanged. He is recommended to undergo surgery at L4-5 and L5-S1 levels. The claimant was referred for preoperative psychiatric evaluation on 02/02/11 and apparently cleared for surgical intervention.

On 08/05/11 the claimant was seen in follow-up by. There were no substantive changes on physical examination. He is reported to be frustrated and wishes to return to work as truck driver. He would like to get surgery done ASAP. On 01/13/12 reports the claimant has been through Benefits Review Board and seen by designated doctor. He adds at this point L4-5 and L5-S1 are accepted. He subsequently recommends claimant to undergo minimally invasive fusion procedure at L4-5 and L5-S1. The claimant was seen by, designated doctor on 04/05/12. notes the claimant's history. notes the claimant walked into examining room leaning to left with limp. He is unable and refuses to walk on toes and heels. He gets about half way down. He is able to stand on either leg with some difficulty. He has tenderness in low back with depression. There is minimal tenderness to deep palpation on lumbar spine. Straight leg raise is positive at 30 degrees bilaterally. His sensation to pinprick is decreased over entire circumference of both legs into hip area including dorsum and plantar surfaces of both feet. Reflexes are 2+ and symmetric. Lumbar range of motion is reduced. Hip flexors are 3.5/5 bilaterally. Quadriceps is 4/5 on right and 3/5 on left. Hamstrings are 3/5 on right and 3/5 on left. Ankle extensors and flexors are 4/5 bilaterally. Great toe extensors are 3.5/5 bilaterally. He is noted to have positive weakness in muscle groups and cannot be explained on localized neurologic basis. He has positive stocking or glove type pattern and sensory abnormalities and subjective complaints are out of proportion to objective findings. The claimant is opined to be at clinical maximum medical improvement. It is noted there are no indications for surgery on any of his exams or testing. He has chronic severe pain syndrome. He was placed at MMI on 01/13/12. He was provided 5% whole person impairment as he has non-verifiable radicular pain.

On 04/27/12 the claimant was seen in follow-up by. It is noted that his surgery has been denied again, stating that he has no radicular complaints. disagrees with this. He opines that the claimant does have a radiculopathy and radicular complaints. He disagrees with the finding of maximum medical improvement.

The initial request for surgery was reviewed by on 03/19/12 who non-certified the request noting that no physical examination findings were included in most recent clinical visit. He notes that there were no objective findings of atrophy or weakness as well as documentation of radiculopathy. He notes that imaging studies do not correlate. He notes that there is no support for the performance of fusion for mechanical back pain. The appeal

The appeal request was reviewed by on 04/13/12, who non-certified the request noting that the previous determination was non-certified due to a lack of documentation of radiculopathy, updated diagnostic imaging, and failure of conservative management. He notes that there is still no radiologist report to document the presence of instability in the spine and that a more comprehensive physical examination with neurologic evaluation with special orthopedic test was not provided. He subsequently finds that the request is not supported and therefore non-certified the request.

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

The submitted clinical records report that the claimant sustained an injury to his low back when stepping out of a truck into a hole. He is noted to have evidence of disc pathology at L4-5 and L5-S1. He is noted to have undergone conservative treatment consisting of oral medications, physical therapy, and interventional procedures without relief. The records as provided do not include lumbar flexion extension views to establish the presence of instability at either the L4-5 or L5-S1 level. It would additionally be noted that the claimant has undergone EMG/NCV, which was reported as normal and

does not validate the claimant's subjective complaints. There is a clear lack of correlation between the claimant's subjective complaints, imaging studies, and physical examination findings. It is noted that the claimant is a smoker of two packs a day for the last 20 years. There is no documentation provided that an effort has been made to encourage the claimant to quit, subsequently leaving him at a much higher risk for the development of pseudoarthrosis if approved. The claimant has undergone a designated doctor evaluation on 04/05/12 and been placed at clinical maximum medical improvement. The designated doctor performed a thorough examination and notes multiple positive findings on Waddell's testing.

The claimant is noted to have been unable or refused to walk on his toes and heels. Reflexes were symmetric. The claimant had global sensory loss, which was not consistent with his imaging studies and global motor strength loss, which again is not consistent with the pathology identified on imaging studies. It would further be noted that the claimant was not recommended as a surgical candidate by the designated doctor who notes these inconsistencies. Therefore, and based upon the submitted clinical information and the ODG criteria for fusion, the reviewer finds the request for inpatient for L4-S1 360 Mini Fusion, length of stay times three is not medically necessary.

**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 REVIEWED NATIONALLY ACCEPTED MEDICAL LITERATURE (PROVIDE A DESCRIPTION)

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