

## NOTICE OF INDEPENDENT REVIEW DETERMINATION

MDR Tracking Number: M2-03-1789-01

September 30, 2003

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by \_\_\_\_, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_.

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### CLINICAL HISTORY

This is a 45-year old gentleman who was injured on \_\_\_ work. He was loading empty 55-gallon tanks. After loading a second tank he felt a sharp shooting pain in his right gluteal muscles and low back. He was evaluated by the company's Physician's Assistant. He was sent for x-rays and was found to have a Grade 1 spondylolisthesis at L5 and this initiated a whole host of conservative management treatments, which included non-steroidal anti-inflammatory agents, a protracted course of physical therapy and three epidural injections. He was finally seen by an orthopedic surgeon who recognized the spondylolisthesis and recommended a back brace. Despite all of these measures the patient continues to be symptomatic nine months after his injury. Imaging studies have included the aforementioned x-ray as well as an MRI scan, which show a lumbosacral disc herniation. He has also had an EMG, which was within normal limits.

### REQUESTED SERVICE(S)

Medical necessity of proposed posterior transforaminal lumbar interbody fusion at L5-S1 and purchase of bone growth stimulator.

## DECISION

Approve requested services.

## RATIONALE/BASIS FOR DECISION

There is a preponderance of evidence from other physicians, including independent medical evaluators as well as physical therapy. It is clear that this patient has been treated in an appropriately conservative management for the past nine months, and according to \_\_\_ appeal letter, the patient is still in intractable low back pain. While the patient would benefit from discontinuing his smoking, discontinuing his Vicodin use and perhaps lose some weight (he is 6' and weighs 238 pounds) it is clear this patient has failed conservative management. The procedure recommended by \_\_\_ is reasonable and limited and is likely to address the patient's main complaint.

The rationale for this decision is based predominately on treatment algorithms for low back pain which are published in virtually every textbook for the surgical treatment of low back pain. Briefly, it is as follows: *all remediable factors should be addressed, specifically weight loss and physical reconditioning. Further, smoking cessation should be undertaken and limitation of narcotic use should be performed. The patient should then be put through a physical reconditioning program.*

The mainstay of recovery is physical therapy and, of course, this patient has been through a great deal of physical therapy. Any impediments to the patient developing a reasonable range of motion in his lumbar spine and any impediments that limit the patient's return to normal activities of daily living should be dealt with through pain management. This patient has had three epidural injections with very limited effect in the first two and a frank exacerbation with the third. If the patient is able to progress through a multimodality trial of physical reconditioning or if the patient, with the assistance of the pain management physicians, is incapable of resuming a reconditioning program, it is appropriate to consider a surgical procedure. In this case, this patient does have identifiable pathology. He has disc space desiccation at L5 with spondylolisthesis, which is seen in upright x-rays but not in the recumbent MRI scan. While his flexion/extension films did not reveal motion, the fact that there was reduction of the spondylolisthesis in the supine position is concerning. Thus, it is appropriate for this patient to be treated as the requesting physician has identified.

## **YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

**If disputing a spinal surgery prospective decision** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of

Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

**If disputing other prospective medical necessity (preauthorization) decisions** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk  
Texas Workers' Compensation Commission  
P.O. Box 17787  
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 1<sup>st</sup> day of October 2003.