

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** June 17, 2004

**AMENDED DECISION**

**MDR Tracking #:** M2-04-1290-01-SS

**IRO Certificate #:** 5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by an Orthopedic Surgeon reviewer (who is board certified in Orthopedic Surgery) who has an ADL certification. The physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### **Clinical History**

The claimant has a history of chronic back pain allegedly related to a compensable work injury that occurred on or about \_\_\_.

### **Requested Service(s)**

Posterolateral lumbar fusion, allograft, posterior instrumentation, cages, bone marrow aspiration, and laminectomy at L5/S1

### **Decision**

I agree with the insurance carrier that the requested intervention is not medically necessary.

### **Rationale/Basis for Decision**

Generally fusion of the lumbar spine is indicated in the presence of instability or pseudoarthrosis. The claimant has undergone a successful posterolateral fusion at the L5/S1 motion segment level. There is no documentation of instability. Radiographic and operative evidence indicates a solid posterolateral arthrodesis. There has been no clear identification of the pain generator site. There is no documentation of EMG/NCV studies confirming radiculopathy. A lumbar discogram report dated 4/18/03 documents an indeterminate discogram at L5/S1 that "did not meet strict criteria for positive discography". There is documentation of "chiro manipulation" and other pain management interventions; however, there is no documentation of exhaustion of conservative measures of treatment including but not limited to oral nonsteroidal and steroidal

anti-inflammatory medication, bracing, and physical therapy emphasizing dynamic spinal stabilization (McKenzie). I strongly recommend that treatment be directed away from surgical intervention and toward constructive conservative measures of treatment.

### **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 (28 Tex. Admin. Code 142.5(c)).

**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 142.5(c)).

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

Chief Clerk of Proceedings / Appeals Clerk  
P.O. Box 17787  
Austin, Texas 78744  
Fax: 512-804-4011

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