

# MCMC

## IRO Medical Dispute Resolution M2 Prospective Medical Necessity IRO Decision Notification Letter

<b>Date:</b>	<b>3/29/05</b>
<b>Injured Employee:</b>	
<b>Address:</b>	
<b>MDR #:</b>	<b>M2-05-0647-01</b>
<b>TWCC #:</b>	
<b>MCMC Certification #:</b>	<b>5294</b>

### **REQUESTED SERVICES:**

Address the prospective medical necessity of the proposed anterior lumbar interbody fusion at L5-S1, posterior lumbar decompression with posterolateral fusion and pedicle screw instrumentation at L5-S1 regarding the above mentioned injured worker.

### **DECISION: Upheld**

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MCMC llc (MCMC) is an Independent Review Organization (IRO) that has been selected by The Texas Workers' Compensation Commission (TWCC) to render a recommendation regarding the medical necessity of the above requested service.

Please be advised that a MCMC Physician Advisor has determined that your request for an M2 Prospective Medical Dispute Resolution on 1/10/05 concerning the medical necessity of the above referenced requested service, hereby finds the following:

**The proposed surgery, anterior/posterior fusion at L5-S1, is not medically necessary.**

### **CLINICAL HISTORY:**

This is a 30-year-old male who claims an injury to his lower back from lifting on \_\_\_\_\_. He was noted early on to have "severe pain" and positive Waddell's signs. He has failed to respond to extensive conservative treatment, including medication, therapy, TENS unit, psychological counseling, epidural steroid and facet injections.

His original nerve study by Dr. Toler was negative. The MRI was positive for disc degeneration, annular tearing, and retrolisthesis at L3-4 and for disc degeneration, disc space narrowing and right sided disc herniation at L5-S1 with nerve impingement. His discogram study was positive for concordant pain at both L3-4 and L5-S1 and the post discogram images showed significant annular tearing at both levels.

He was noted on psychological evaluation to have an adjustment disorder with anxious and depressed features as a result of the work injury and also noted to have "catastrophic belief regarding long term disability."

Dr. Battle, the neurosurgeon requesting the fusion, in his initial evaluation in 07/2004 recommended flexion-extension X-rays to evaluate the spinal stability. There is no record that these were done or evaluated prior to requesting surgery. He dismisses the positive discogram finding at L3-4 due to a slightly higher end pressure of injection. He does not address the patient's psychological background.

**RATIONALE:**

The request for fusion is based largely on discography, which is not reliable in patients with chronic pain and psychological issues. (ACOEM guidelines Chapter 12). This patient has documented psychological issues (see K clinic notes) and, as recently as 09/14/2004 was noted to require assistance in getting dressed due to pain; this is a degree of disability clearly exaggerated in light of his objective findings. The proposed surgery has a high likelihood of failure and the indications are not well supported by medical literature.

**REFERENCE:**

ACOEM Guidelines Chapter 12 in regards to discography and fusion.

**RECORDS REVIEWED:**

- TWCC Notification of IRO Assignment dated 1/10/05
- TWCC MR-117 dated 1/10/05
- TWCC-60 stamped received 12/27/04
- TWCC EES 14 dated 11/18/04
- TWCC 73s dated 2/24/04 to 1/6/05
- TWCC 69 dated 12/2/04
- St. Paul Travelers: Denial letters dated 11/12/04, 10/18/04; Claim forms for DOS 12/8/04
- DFW Pain Consultants: Patient demographic sheets dated 6/29/04, 8/10/04; Operative Reports dated 8/20/04, 4/16/04, 5/14/04, 6/16/04, 7/30/04; Operative report and supporting documents for ESI done 5/14/04; Progress Notes dated 3/24/04 to 9/16/04
- K Clinic/Irving: Referral Requisition dated 3/23/04; letter of medical necessity dated 5/28/04; Referral Requisitions (date unclear on initial requisition), 3/23/04; Psych Clinical/Diagnostic Interview dated 5/13/04; Physician Initial Report dated 3/23/04; Treatment program dated 4/2/04; WC Initial Eval dated 4/9/04; Individual Psychological Service Note dated 6/21/04; Progress Reports dated 3/5/04 to 12/16/04 with treatment programs
- TWCC: letter re: missed appointment dated 8/11/04
- Spinal Solutions PA: Follow-up letter dated 9/27/04, 7/21/04

- Dr. Howard Douglas: Prior Authorization Request dated 10/14/04
- MRI Central: Lumbar Spine MRI done 3/15/04
- Travelers Insurance: Claim form for DOS 12/2/04
- James Tyler, DO: Designated Doctor Evaluation dated 12/2/04 with Lumbar ROM Impairment Report
- Universal Medical: Electromyography Report dated 12/8/04
- Kathy A. Toler, MD: EMG and NCV Report Neurology and Electrodiagnosis report dated 3/29/04
- SJK Central Supply: Rental/purchase papers for TENS unit
- Facility unidentified: Records of Caudal ESI done 4/16/04
- Concentra Medical Centers: Office notes for DOS 2/25/04 to 3/20/04
- Texas Imaging & Diagnostic Center: Post Discogram CT Scan of lumbar spine dated 8/20/04

The reviewing provider is a Boarded Orthopedic Surgeon and certifies that no known conflict of interest exists between the reviewing Orthopedic Surgeon and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO.

### **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) days or your receipt of this decision (28Tex.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) days of your receipt of this decision (28Tex.Admin. Code 148.3©.)

This decision is deemed received by you 5 (five) days after it was mailed (28Tex.Admin. Code 102.4(h)(2) or 102.5(d)). A request for a hearing **and a copy of this decision** should be sent to:

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

The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties 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**

**29<sup>th</sup> day of March 2005.**

**Signature of IRO Employee:** \_\_\_\_\_

**Printed Name of IRO Employee:** \_\_\_\_\_