



We are simultaneously forwarding copies of this report to the payor and the Texas Workers' Compensation Commission. This decision by Independent Review, Inc. is deemed to be a Commission decision and order.

#### YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this 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 ten (10) days** of your receipt of this decision (28 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 twenty (20) days** of your receipt of this decision (28 Tex. Admin. Code 148.3).

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

Chief Clerk of Proceedings  
Texas Workers' Compensation Commission, MS-48  
7551 Metro Center Dr., Ste. 100  
Austin, TX 78744-1609

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

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 March 16, 2005.

Sincerely,

Gilbert Prud'homme  
General Counsel  
GP/thh

#### **REVIEWER'S REPORT M2-05-0978-01**

##### **Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's  
Information provided by Requestor:

- Office note 12/17/04
- Physical performance tests 06/04/04 – 08/18/04
- Radiology reports 04/06/04 – 10/28/04

Information provided by Respondent:

- Correspondence
- Designated doctor reviews

Information provided by Neurologist:

- Office notes 10/27/03 – 08/26/04
- Physical therapy notes 05/24/04 – 08/25/04
- Operative report 04/06/04

Information provided by Orthopedist:

- Office note 03/04/04

**Clinical History:**

This is the case of a 53-year-old male who is having intractable lower back pain. He has had a total of 3 back operations in the past. His first surgery was performed in 1988 and was a lumbar laminectomy at L5/S1 with nerve root decompression. His second surgery was done in September of 2002. This procedure was again a lumbar discectomy at L5/S1 with decompression. After each one of these 2 procedures, he was able to return to work and was apparently doing well until the next injury.

His third operation was a posterolateral interbody fusion at the L5/S1 level done on 4/6/04 using cages, medical screws and fusion rods. He was doing well following that procedure until he went through a work-hardening program. After that program, he began having intractable low back and leg pain, which has been refractory to further conservative treatment. At this time, a fourth back operation is contemplated on this patient. He physician has suggested discograms be done at the 3 levels above the L5/S1 joint.

**Disputed Services:**

Lumbar discogram w/CT at levels L2-L3, L3-L4 & L4-L5.

**Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the procedure in dispute as described above is medically necessary in this case.

**Rationale:**

This man has had 3 past back surgeries, and he has a great amount of scar tissue around the nerve roots and neural structures in his back. The status of the lumbar disc above the L5/S1 level is certainly not clear. The metallic implants and multiple surgeries on his back cause very much difficulty in diagnosing the continuing source of pain in his back. I think as much information as possible is needed before embarking and deciding on a fourth back operation.