

# MEDICAL REVIEW OF TEXAS

[IRO #5259]

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## NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M2-05-1012-01-SS
Name of Patient:	
Name of URA/Payer:	Hartford Underwriters Insurance Co.
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician:	Jose Magbay, DC
(Treating or Requesting)	

April 21, 2005

An independent review of the above-referenced case has been completed by a medical physician board certified in orthopedic surgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, 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

Medical Review of Texas (MRT) 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 MRT.

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Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: Richard R. Francis, MD  
Jose Magbay, DC  
Texas Workers Compensation Commission

RE:

CLINICAL HISTORY

This 46-year-old man was pushing a block of steel on his date of injury \_\_\_\_\_. As he twisted and rotated to put it into position he developed low back pain.

The patient was initially treated conservatively with physical therapy, Vioxx, Skelaxin and Darvocet. He had an initial period of modified duty but was eventually able to return to regular duty. An MRI of the lumbar spine performed 12/26/03 reportedly showed disc desiccation at the L5-S1 level with a 2mm retrolisthesis, facet arthrosis at L4-5 and L5-S1 and a 6-7mm disc protrusion at L5-S1 with bilateral mild to moderate neural foraminal narrowing. EMG and nerve conduction studies obtained by Omar Vidal, MD on 9/2/04 were reportedly compatible with L4 and L5 radiculopathies bilaterally. Repeat studies by Suzanne Page, MD were normal.

The patient was evaluated by Martin N. Steiner, MD, a neurologist on 12/17/03. He felt that the patient had a lumbar strain and did not believe that the MRI that was subsequently performed was indicated. However after the MRI was performed the patient was seen by a neurosurgeon, Pedro Caram, MD who did not believe that surgery was indicated.

The patient was evaluated by a designated doctor Richard Pannerya, MD on 10/21/04. Dr. Pannerya felt that the patient was at maximum medical improvement. He noted that the patient was working regular duty and he was requiring no medications for his orthopedic problem.

Subsequent to that evaluation there is a report from Jose Magbay, DC from 1/25/05 stating that the patient had left leg symptoms with weakness and sensory deficit in the L5-S1 distribution. A TWCC-73 form completed by Jose Magbay, DC indicated this patient was only able to perform light duty.

The patient was seen by Richard Francis, MD who is now requesting permission to perform disc replacement surgery at the L5-S1 level. A TWCC-73 form completed by Dr. Francis indicates that the patient was taken off work completely. There, however, is no documentation that the patient is requiring any medications for his problem.

History of past health is significant for diabetes mellitus. The patient's medications list includes Amaryl, Enalapril, Abandia, Zocar and Metformin.

REQUESTED SERVICE(S)

Lumbar disc arthroplasty L5-S1 with Charite artificial disc.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

The patient's current symptom complex and examination performed 1/25/05 by Jose Magbay, DC are more compatible with radiculopathy than degenerative disc disease. Disc replacement arthroplasty is not likely to resolve these radicular findings. Further, multiple previous examiners failed to document radiculopathy. Therefore, there is concern that a subsequent event occurred after the \_\_\_ work related accident to produce the patient's current symptom complex and neurological changes involving his left leg.

An MRI performed 12/26/03, almost one and a half years ago, showed facet arthrosis at L4-5 and L5-S1 bilaterally. These findings are relative contraindications to performing disc replacement arthroplasty. Patrick Tropiano, MD et al reported a 7-11 year follow-up on disc replacement surgery in the "Journal of Bone and Joint Surgery" March 2003. They obtained good or excellent results in 74% of the 55 patients they treated. However, exclusion criteria included facet arthrosis which this patient was documented to have at 2 levels in 2003 at the time of that MRI. It is feasible that the patient's arthrosis would have worsened with the passage of time.

In conclusion, this patient is not a candidate for disc replacement arthroplasty because his symptom complex and neurological findings are not likely to respond to this treatment, he has facet arthrosis at multiple levels which contraindicates this procedure, and the patient's level of function has been quite satisfactory. The patient has been documented to be able to perform his regular occupation and he is not requiring any medications for his problem.

## 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).

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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 22<sup>nd</sup> day of April, 2005.

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

Printed Name of IRO Employee: Cindy Mitchell