

# MCMC

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

<b>Date:</b>	<b>4/25/05</b>
<b>Injured Employee:</b>	
<b>Address:</b>	
<b>MDR #:</b>	<b>M2-05-1256-01</b>
<b>TWCC #:</b>	
<b>MCMC Certification #:</b>	<b>5294</b>

### **REQUESTED SERVICES:**

Review the item in dispute to address the prospective medical necessity of the proposed lumbar discectomy, fusion and instrumentation at L3-4, L4-5 and L5-S1 with 3 days LOS 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 3/31/05, concerning the medical necessity of the above referenced requested service, hereby finds the following:

**The opinion of four different peer review denials of the requested three level lumbar decompression and fusion should be upheld. The requested procedure is not medically reasonable or necessary.**

### **CLINICAL HISTORY:**

This injured individual is a 45-year-old male who fell and twisted his back, landing on his buttocks on \_\_\_\_\_. He was evaluated initially by Dr. Pisharodi, a neurosurgeon, on July 1, 2003. At that time, the patient was noted to have severe lower back pain and pain in his right leg with numbness and weakness. He was also noted to have some neck pain and pain between his shoulders. Physical examination revealed the patient to be 5 ft. 10 inches tall and to weigh 296 pounds. He was able to stand up from his chair and walk without any impairment. He was able to walk on his heels and toes. He was noted to be significantly overweight and out of shape. Straight leg raising was positive on both sides at 15 degrees. His deep tendon reflexes were reduced with no evidence of muscle atrophy or weakness. There was no significant sensory loss in the right lower extremity. At that time MRI and nerve studies were recommended.

Lumbar spine X-rays from July 15, 2003 did not show any evidence of fracture or bone injury. There was evidence of osteophyte formation of L4-5 due to spondylolytic process.

MRI of the lumbar spine without contrast from July 15, 2003 showed spondylolytic process of moderate degree with bulging disk and ligament hypertrophy noted at L3-4, L4-5, and L5-S1.

Nerve conduction, EMG studies, and quantitative sensory testing from July 22, 2003 did not show definite evidence of any significant nerve root compression. However, mild-moderate bilateral S1 nerve root compression cannot be ruled out.

The most recent office note from Dr. Pisharodi is dated February 9, 2005. He indicates that the patient continues to complain of severe lower back pain. He is getting worse and physical therapy did not help. Anytime the patient tries to do any physical work or labor, he develops back pain and has to sit down and wait until the pain subsides. Sometimes the pain is greater than 10 on a scale of 0-10. The patient is taking Flexeril, Darvocet, and Arthrotec on a regular basis. Under the section of physical evaluation, the doctor writes: "The patient is a Hispanic male. He is alert and oriented in time, place and person and during the interview and his physical evaluation. I did not perceive any sign of malingering. I believe that he has been sincere about his symptoms and he has clear facial expressions of being in pain. There are no neurological deficits."

**RATIONALE:**

The described condition is chronic, unrelenting lower back pain with normal neurological findings and no definite evidence of nerve compression on MRI or electrical testing. The imaging findings are of degenerative spondylosis. The reason offered for surgery is the continued presence of pain despite medication, therapy, and injections. It is unclear how the patient will benefit from fusion surgery as there is no definite pain generator identified and there is no evidence of structural instability.

The clinical information provided does not describe a condition that would be considered suitable for a three-level lumbar fusion according to two standard clinical guidelines. According to ACOEM guidelines for lower back pain, fusion surgery is not supported for the treatment of lower back pain in the absence of fracture, dislocation, or complications of tumor or infection. According to NASS clinical guidelines, there is a limited role for one-level fusions in patients who are psychologically clear and who have a single level disc disruption confirmed by properly performed discography with negative controls. The results of fusion at two or more levels are poor.

**REFERENCES:**

ACOEM guidelines, Table 12-8

NASS Phase III Clinical Guidelines for Unrelenting Low Back Pain, pages 49-51.

**RECORDS REVIEWED:**

- TWCC Notification of IRO Assignment dated 3/31/05
- TWCC MR-117 3/31/05
- TWCC-60
- TWCC-64
- Corvel: Determination letters dated 2/24/05, 2/11/05, 7/28/04, 8/20/04; letter to Texas Municipal League dated 3/16/05; IRO Summary prepared in 09/04
- Pisharodi Clinic: Letters of Medical Necessity dated 2/18/05, 2/9/05, 1/4/05, 7/22/05, 5/4/05, 4/2/04, 1/6/04, 10/22/03, 9/22/03, 8/12/04, 8/28/03; History and Physical dated 7/1/03; Initial Request, submitted on 2/9/05; Reconsideration request dated 2/22/05; Independent Review, Inc: Review dated 10/14/04; Neurophysiology Laboratory-Nerve Conduction/ EMG Study reports for DOS 7/22/03
- Valley Regional Medical Center: Report of MRI lumbar spine for DOS 7/15/03; Report of Xray of lumbar spine dated 7/15/03
- Brownsville Back School: Initial Physical Therapy Evaluation dated 12/7/04; Discharge Summary dated 2/2/05
- Flahive, Ogden & Latson: Motion to Dismiss & Summary of Self-Insured's Position dated 3/21/05

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**

**25<sup>th</sup> day of April 2005.**

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

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