

October 31, 2005

[Claimant]

Re:    **MDR #:**            M2-06-0053-01            **Injured Employee:**    \_\_\_  
      **TWCC#:**            \_\_\_                            **DOI:**                    \_\_\_  
      **IRO Cert. #:**    5055                       **SS#:**                    \_\_\_

**TRANSMITTED VIA FAX TO:**  
**TDI, Division of Workers' Compensation Commission**  
Attention:  
Medical Dispute Resolution  
Fax: (512) 804-4868

**RESPONDENT:**  
Hartford Ins Co of the Midwest  
Attention: Barbara Sachse  
Fax: (512) 343-6836

**TREATING DOCTOR:**  
Suhail Al-Sahli, DC  
Fax: (281) 333-0442

Dear Mr. \_\_\_:

In accordance with the requirement for DWC to randomly assign cases to IROs, DWC assigned your case to IRI for an independent review. IRI has performed an independent review of the medical records to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the Independent Review Organization. Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is a board certified in Orthopedic Surgery and is currently listed on the DWC Approved Doctor List.

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

#### Your Right To Appeal

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

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 October 31, 2005.

Sincerely,

Gilbert Prud'homme  
General Counsel

GP/dd

**REVIEWER'S REPORT**  
**M2-06-0053-01**

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**Information Provided for Review:**

DWC-60, Table of Disputed Services, EOB's  
From Respondent:

Designated Review

Treating MD:

Office Notes 07/23/04 – 08/23/04  
Nerve Conduction Study 04/08/05  
Radiology 06/17/02 – 05/25/05

Neurosurgeon:

Office Notes 12/11/03 – 07/20/04  
OR Report 02/12/04

Pain Management:

Office Notes 10/03/02 – 09/30/05  
OR Report 01/19/03 – 05/19/05

Internal MD:

Office Notes 05/12/05 – 07/27/05

**Clinical History:**

The patient was injured at the age of 58 when he fell from a ladder while working on a football stadium in Houston, Texas. He suffered an injury to his thoracic and lumbar spine. He suffered from chronic low back pain and bilateral leg pain. He underwent an L4/L5 right discectomy by a neurosurgeon in December 2003. The patient continued to have persistent low back pain and bilateral leg pain. He was treated extensively with nonoperative management including epidural steroid injections, pain management, activity restrictions, and was also worked up with a discogram, myelogram, post myelogram CT scan, and MRI scan. He was referred to an orthopedic surgeon who recommended an L3/L4, L4/L5, and L5/S1 decompression and fusion with internal fixation.

**Disputed Services:**

Lumbar decompression & fusion/pedicle screws, L3-4, L4-5, L5-S1, five days LOS.

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion the services in dispute as stated above are not medically necessary in this case.

**Rationale:**

This patient's history is quite complex. Although I agree he certainly aggravated his underlying non-work-related degenerative disc disease that is compensable, the proposed surgery does not appear to be medically reasonable. The patient has a positive discogram or concordant pain at L5/S1. EMG study showed nerve root irritation at the right L4/L5 and L5/S1 only. However, the proposed surgical treatment is a fusion and decompression from L3 through S1. Many comments in the records demonstrate significant stenosis at L1/L2, and this is not being addressed. In addition, the only concordant response for this patient was at the L5/S1 level. I therefore feel that fusing from L3 through S1 and decompressing may not rid this patient of his back or leg pain, as the pain generator has not been identified well in this patient's preoperative workup.