

November 3, 2005

[Claimant]

Re: **MDR #:** M2-06-0108-01 **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:
Twin City Fire Ins Co
Attention: Barbara Sachse
Fax: (512) 343-6836

TREATING DOCTOR:
Gerardo Zavala, MD
Fax: (210) 541-0580

Dear Ms. ___:

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 November 3, 2005.

Sincerely,

Gilbert Prud'homme
General Counsel

GP/dd

REVIEWER'S REPORT M2-06-0108-01

Information Provided for Review:

DWC-60, Table of Disputed Services, EOB's

From Respondent:

Correspondence

Treating MD:

Office Visits 09/03/02 – 07/12/05

Nerve Conduction Study 01/14/04

Radiology 06/21/02 – 04/25/05

Orthopedic:

Office Notes 12/16/03 – 06/24/04

Pain Management:

Office Visit 10/16/02

Clinical History:

The patient is presently a 38-year-old woman initially injured at work on _____. She was initially seen by Dr. Gerardo Zavilla, a neurosurgeon, in September 2002. She was followed conservatively for quite some time and then seen again in 2004 for persistent low back and radiating right leg pain. The patient's treating surgeon has recommended a discectomy and fusion.

Disputed Services:

Laminectomy & discectomy @ L5-S1, plif, internal fixation with cages, posterior instrumentation, w/screws/rods and lateral fusion 2-3 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:

I have a report of an MRI scan from July 2002 that reveals minimally degenerative L4/L5 disc and no abnormality at the L5/S1 disc. The MRI scan from February 2004 reveals a broad posterior L4/L5 disc protrusion as well as facet arthropathy at that level. The L5/S1 reveals a broad posterior 2 mm annular disc bulge, no protrusion. Finally, there is a report of a myelogram of the lumbar spine dated 04/25/05 at 12:17 p.m. followed by a CT scan of the lumbar spine dated 04/25/05 at 12:44 p.m. The CT scan reveals an L4/L5 broad-based posterior bulge with borderline spinal canal stenosis and mild lateral recessed stenosis. The L5/S1 reveals a posterior central and right disc herniation.

Examination of the patient's clinic notes indicates that the patient has low back pain and radiating right lower extremity pain. In fact, examination dated 03/11/05 reveals a positive tension sign with straight leg raise positive at 20 degrees on the right. In fact, the patient has radiating right lower extremity pain to her right foot.

With imaging, physical examination, and historical evidence consistent with an L5/S1 disc herniation, surgical microdiscectomy is reasonable. However, with evidence of 2 levels of degenerative discs, there is no evidence to suggest that fusing the single L5/S1 disc would be of any clinical benefit.