

January 24, 2006

Re: MDR #: M2-06-0114-01 **Injured Employee:**
DWC #: **DOI:**
IRO Cert. #: 5055 **SS#:**

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

RESPONDENT:
Target Corp/F.O.L.
Attention: Katie Foster
Fax: (512) 867-1733

TREATING DOCTOR:
Russell Baker, DC
Fax: (512) 989-8181

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. This decision by Independent Review, Inc. is deemed to be a DWC 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 January 24, 2006.

Sincerely,

Gilbert Prud'homme
General Counsel

GP/dd

REVIEWER'S REPORT
M2-06-0114-01

Information Provided for Review:

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

From Requestor:

Correspondence

From Respondent:

Correspondence

Spine:

Office Notes 04/20/05 – 10/21/05

Electromyogram 05/23/05

Radiology Report 12/10/04 – 05/17/05

Ortho-Spine:

Office Notes 06/17/05 – 08/10/05

Ortho:

Office Notes 10/28/04 – 03/16/05

Clinical History:

The patient is a 53-year-old male with chronic low back pain. He underwent a previous L5/S1 fusion in the early 1980s. This was complicated by pseudoarthrosis. All of the patient's lower back injuries are work-related. The patient has been treated extensively for chronic low back pain and right leg pain. He was worked up with CT myelogram and MRI scan, which showed pseudoarthrosis at L5/S1 and severe lateral recess stenosis from facet arthrosis and effacement of the right L5 nerve root. A lumbar discogram has been recommended by the patient's spine surgeon and requested by Dr. Joshi. This has been denied multiple times by the insurance company as medically unnecessary.

Disputed Services:

Lumbar Diskogram, Injection discography.

Decision:

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

Rationale:

This patient has a complex, complicated history with a previous L5/S1 fusion that either never healed or went on to pseudoarthrosis after another injury. The patient has been treated adequately with conservative management including injection therapy, physical therapy, and medical management. He has failed this and has been referred to a spine surgeon who recommends discography to better evaluate other levels that may be contributing to his chronic low back pain. He has an EMG consistent with L5 radiculopathy, and certainly the L4/L5 level needs to be addressed. However, because of the chronic nature of his low back pain, it would be very helpful to find out other levels that could be causing the lower back pain prior to undergoing lumbar decompression and fusion.