

November 14, 2005

[Claimant]

Re: **MDR #:** M2-06-0152-01 **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

REQUESTOR:
Shahid Rashid, MD
Attention: Anne
Fax: (956) 687-4447

RESPONDENT:
Liberty Mutual
Attention: Carolyn Guard
Fax: (574) 258-5349

TREATING DOCTOR:
Mohammed Beck, MD
Fax: (956) 668-9597

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 Neurology and Pain Management 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 November 14, 2005.

Sincerely,

Gilbert Prud'homme
General Counsel

GP/dd

REVIEWER'S REPORT M2-06-0152-01

Information Provided for Review:

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

From Requestor:

Office Notes 11/02-04 – 09/21/05

OR Reports 12/20/04 – 03/14/05

Radiology Reports 06/10/05

From Respondent:

Correspondence

Clinical History:

This claimant sustained a work-related injury on ____, which has resulted in a chronic low back pain condition. Available records indicate that the claimant has undergone several treatment trials including lumbar medial branch block under fluoroscopy bilaterally followed by lumbar facet joint radiofrequency rhizotomies bilaterally. The claimant has been treated with medications including anti-inflammatory medicines as well as short-acting opioids. Imaging studies have included an MRI scan of the lumbar spine done with and without contrast on 06/10/05, which is interpreted as showing a degenerative disc at L5/S1 but without evidence of disc herniation or spinal stenosis. Also noted is a bulging disc at L3/L4 and some small bone spurs seen on multiple levels. The L4/L5 disc level specifically is noted to appear normal. A discogram study done at 2 levels, L4/L5 and L5/S1, dated 03/14/05 is interpreted as showing reproduction of concordant pain at the L4/L5 level with no similar response noted at the L5/S1 level. There was no extravasation of contrast material at either level. A CT scan was supposed to have been done afterwards, but the report for this is not included.

Disputed Services:

L4/L5 Nucleoplasty

Decision:

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

Rationale:

It appears that this claimant does have a primarily axial low back pain condition and has already been treated for a lumbar facet joint source. A discogram study did demonstrate a disc level that reproduced the patient's symptoms with a control level having been done, as well. Though I typically would like to have seen 2 control levels, it appears that there is enough evidence with the study that was completed to implicate the L4/L5 disc as potentially the pain generator for this claimant. Treatment at the L4/L5 disc level, therefore, would include an option for fusing that level versus a nucleoplasty procedure. Since the latter is felt to be much more conservative and is essentially an outpatient procedure, I believe that it would be worthwhile to have the claimant undergo a trial of this procedure in place of the alternative of a fusion surgery. Therefore, I am of the opinion that the nucleoplasty procedure at the L4/L5 disc level would be a reasonable request, given the evidence as summarized.