

November 29, 2005

[Claimant]

Re:    **MDR #:**            M2-06-0208-01            **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:**  
Archer Daniels Midland Co/Gallagher Basset  
Attention: Myrtis Lacy  
Fax: (972) 931-6429

**TREATING DOCTOR:**  
Cotton D. Merritt, DC  
Fax: (806) 744-3141

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 November 29, 2005.

Sincerely,

Gilbert Prud'homme  
General Counsel

GP/dd

**REVIEWER'S REPORT**  
**M2-06-0208-01**

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**Information Provided for Review:**

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

From Respondent:

Correspondence

Designated Review

Treating MD:

Office Notes 06/16/05 – 09/16/05

OR Report 06/28/05 – 08/23/05

Radiology Report – 01/11/05 – 08/23/05

Chiropractor:

Office Notes 12/23/04 – 10/03/05

Daily Notes 01/10/05 – 08/31/05

FCE 09/07/05

Spine Surgeon:

Office Notes 11/17/04 – 05/25/05

**Clinical History:**

The patient, a 48-year-old gentleman, was injured on \_\_\_ when he fell off a ladder. The patient has persistent pain in his back as well as some radicular left lower extremity symptoms.

**Disputed Services:**

Lumbar laminectomy with fusion and instrumentation L4-5, 1 day LOS, purchase TLSO back brace.

**Decision:**

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

**Rationale:**

I have a report of an MRI scan on this patient dated 01/11/05, which reveals multilevel degenerative discs in his lumbar spine at L1/L2, L2/L3, and L3/L4, and less severe disc desiccation at the L4/L5 level. There is facet degenerative changes present also at multiple levels. This is correlated by CT scan post myelogram dated 06/28/05 with bulges at all involved levels.

Discography performed on this patient dated 08/23/05 reveals back pain at all tested levels including L3/L4, L4/L5, and L5/S1. The L4/L5 level was reported to have significant low back pain, but no mention was made in this report of whether any of the levels were concordant with the patient's pain.

Based on this information, fusion at the L4/L5 level would not eliminate this patient's symptoms. Therefore, surgery is not indicated.