

NOTICE OF INDEPENDENT REVIEW DECISION

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April 7, 2006

Requestor

Robert J. Henderson, MD  
ATTN: Amada S.  
1261 Record Crossing  
Dallas, TX 75235

Respondent

TASB  
ATTN: Jackie Rosga  
P.O. Box 2010  
Austin, TX 78768

RE:    Claim #:                    \_\_\_\_\_  
       Injured Worker:            \_\_\_\_\_  
       MDR Tracking #:            M2-06-0896-01  
       IRO Certificate #:          IRO4326

TMF Health Quality Institute (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Division of Workers' Compensation (DWC) has assigned the above referenced case to TMF for independent review in accordance with DWC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a TMF physician reviewer who is board certified in Orthopedic Surgery, by the American Board of Orthopaedic Surgery, Inc., licensed by the Texas State Board of Medical Examiners (TSBME) in 1969, and who provides health care to injured workers. This is the same specialty as the treating physician. The TMF physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and the provider, 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 IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient sustained a work related injury on \_\_\_\_, when she was working in a cafeteria, stacking some things, and had a hard slip and fell onto her buttocks. This resulted in complaints of low back pain that developed into bilateral leg pain. The patient underwent an anterior-posterior fusion at L5-S1 in June of 2002 and removal of hardware in May of 2003.

Requested Service(s)

Posterior lumbar interbody fusion L4-L5, additional levels L5-S1, posterior decompression L4-L5, additional level L5-S1, transverse process fusion L4-L5, additional Level S5-S1, posterior internal fixation L4-S1, bone graft, allograft, bone graft, autograft, iliac crest, bone marrow aspirate.

Decision

It is determined that the posterior lumbar interbody fusion L4-L5, additional levels L5-S1, posterior decompression L4-L5, additional level L5-S1, transverse process fusion L4-L5, additional Level S5-S1, posterior internal fixation L4-S1, bone graft, allograft, bone graft, autograft, iliac crest, bone marrow aspirate is not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

This patient is suffering from chronic back pain and two prior surgeries and a pain management program have failed to provide relief. The medical record documentation indicates that the patient has moderate to severe obesity and has symptoms of stress urinary incontinence. In addition, the documentation indicates that the patient has pseudarthrosis at level L5-S1. The only structural lesion that would be appropriate for surgical approach is "pseudarthrosis of L5-S1". Anecdotal literature would suggest that this patient is a poor surgical candidate with a less than 20% chance for pain relief even if fusion is achieved at L5-S1 by this proposed surgery. The medical record documentation does not substantiate the medical necessity for inclusion of L4-L5 in the proposed surgery. Therefore, the surgery as currently requested is not medically necessary.

This decision by the IRO 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.

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for hearing and a **copy of this decision** must be sent to: Chief Clerk of Proceedings/Appeals Clerk, Texas Department of Insurance, Division of Workers' Compensation, P.O. Box 17787, Austin, Texas, 78744, Fax: 512-804-4011.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in this dispute.

Sincerely,

Gordon B. Strom, Jr., MD  
Director of Medical Assessment

GBS:dm  
Attachment

cc: Injured Worker  
Program Administrator, Medical Review Division, DWC

In accordance with Division Rule 102.4 (h), 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 this 7th day of April 2006.

Signature of IRO Employee:

Printed Name of IRO Employee:

**Attachment**

### **Information Submitted to TMF for Review**

**Patient Name:** \_\_\_\_

**Tracking #:** M2-06-0896-01

#### **Information Submitted by Requestor:**

- Request for Preauthorization for Surgery
- Chart Notes from Dr. Henderson
- Imaging report on lumbar myelogram
- Report of CT scan post myelogram
- Imaging report on MRI of the lumbar spine
- Nerve conduction study
- Imaging report of CT scan of the lumbar spine

#### **Information Submitted by Respondent:**

- List of submitted exhibits
- Disputed Issue
- Table of disputed services
- Decision letters from TASB
- Request for Preauthorization for Surgery
- Chart Notes from Dr. Henderson
- Imaging report of CT scan of the lumbar spine
- Imaging report on MRI of the lumbar spine
- Nerve conduction study
- X-ray report of lumbar spine
- Imaging report on lumbar myelogram
- Report of CT scan post my
- Designated Medical Examination
- Medical Record Review
- Required Medical Evaluation
- Independent Medical Evaluation
- Progress notes