

MCMC

IRO Medical Dispute Resolution M2 Prospective Medical Necessity IRO Decision Notification Letter

Date:	04/18/2006
Injured Employee:	
Address:	
MDR #:	M2-06-0906-01
DWC #:	
MCMC Certification #:	IRO 5294

REQUESTED SERVICES:

Please review the item(s) in dispute: Pre-authorization denied for anterior interbody fusion L4-L5, additional level L5-S1, retroperitoneal exposure and discectomy L4-L5, additional level L5-S1, anterior interbody fixation L4-L5, additional level L5-S1, posterior decompression L4-L5, additional level L5-S1, transverse process fusion L4-L5, additional level L5-S1, posterior internal fixation L4-S1, bone graft allograft, bone graft autograft in situ, bone graft autograft iliac crest, bone marrow aspirate, and Cybertech lumbar brace.

DECISION: Upheld

IRO MCMC llc (MCMC) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO) to render a recommendation regarding the medical necessity of the above disputed service.

Please be advised that a MCMC Physician Advisor has determined that your request for an M2 Prospective Medical Dispute Resolution on 04/18/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The anterior interbody fusion L4-L5, additional level L5-S1, retroperitoneal exposure and discectomy L4-L5, additional level L5-S1, anterior interbody fixation L4-L5, additional level L5-S1, posterior decompression L4-L5, additional level L5-S1, transverse process fusion L4-L5, additional level L5-S1, posterior internal fixation L4-S1, bone graft allograft, bone graft autograft in situ, bone graft autograft iliac crest, bone marrow aspirate, and Cybertech lumbar brace are not medically necessary.

CLINICAL HISTORY:

This female injured individual was allegedly injured on _____ when she slipped on a clothes hangar. She allegedly strained her low back, shoulder and both knees. The MRI studies of her knees apparently revealed significant chondromalacia the medial and patellofemoral compartments. The injured individual is said to be overweight and has had extensive treatment with medications, physical therapy (PT), chiropractic care and facet and epidural steroid injections.

REFERENCE:

Current concepts review: Lumbar Arthrodesis for the treatment of Back Pain: Hanley, E.N. and David, S.M. JBJS 81: 716-730, 1999.

RATIONALE:

The MRI study of 05/12/2004 revealed moderate disc dehydration from L4 to S1 and milder changes at L3/4. There were anterior endplate changes at L3/4. There was facet hypertrophy from L3 to S1 with ligamentum hypertrophy at L4/5. There was a mild annular bulge at L4/5 with signal change compatible with an annular fissure. There were no changes of canal or foraminal stenosis.

The note of 06/16/2005 states that Dr. Henderson recommended a discogram study. Dr. Cunningham recommended the Carticel procedure for her knee. The injured individual per the note of 08/22/2005 stated that she could not work in any capacity.

On 09/23/2005 the injured individual weighed 204 pounds. She complained of “unremitting low back pain with radiation into her buttocks and thighs more on the right side. She has intermittent pain radiating to the right toes at a 9/10 level. There is no documentation of a physical examination having been performed at the time of this office visit.

Per Dr. Henderson x-rays apparently revealed “thinning of the facets at L5/S1 and some gaping of her facets unilaterally at L4/5”. It is very difficult to accurately assess the facet joints on standard x-rays of the lumbar spine. He also stated that she had “developed some scoliosis at L4/5 with ongoing deterioration of the disc space”. Hence he recommended a fusion from L4 to S1 because of “progressive spondylosis, facet arthropathy, instability and scoliosis” from L4 to S1.

This injured individual has complaints that are not commensurate with objective clinical findings. In addition, the MRI study obtained shortly after the alleged injury was essentially compatible with age-related changes. Her complaints are out of proportion to these imaging findings. She is also obese and has radicular complaints that are not substantiated by objective clinical or imaging findings. Furthermore, she had changes of facet disease at L3/4 in May 2004. These would increase with the aging of the lumbar spine.

The presence of multi-level age-related degenerative spondylosis is a contraindication to the proposed surgery. It would be in the best interests of the injured individual to lose weight, get

involved in a regular conditioning and walking exercise program, and get back to work. The invasive treatment for chronic back pain related to the natural aging process is not medically necessary.

RECORDS REVIEWED:

- Notification of IRO Assignment dated 03/13/06
- MR-117 dated 03/13/06
- DWC-60
- MCMC: IRO Medical Dispute Resolution Prospective dated 03/22/06
- MCMC: IRO Acknowledgment and Invoice Notification Letter dated 03/14/06
- Stradley & Wright: Letter dated 03/17/06 from Henry Wehrmann
- CBMCS: Inpatient UR Determination dated 02/17/06 from Robert Holladay, M.D.
- CBMCS: Inpatient UR Determination dated 02/14/06 from Robert Holladay, M.D.
- Request for Preauthorization for Surgery dated 01/31/06
- Dallas Spine Center: Chart Notes dated 01/31/06, 09/23/05, 08/22/05, 06/16/05 from Benjamin Cunningham, M.D.
- Park Cities Surgery Center: Procedure Notes dated 02/28/05, 10/25/04 from Benjamin Cunningham, M.D.
- Park Cities Surgery Center: Operative Report dated 12/29/04 from Benjamin Cunningham, M.D.
- MRI Central: MRI lumbar spine dated 05/12/04

The reviewing provider is a **Licensed/Boarded Orthopaedic Surgeon** and certifies that no known conflict of interest exists between the reviewing Orthopaedic Surgeon 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 prior to referral to the IRO. The reviewing physician is on DWC's Approved Doctor List.

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 (28Tex.Admin. Code 102.4(h)(2) or 102.5(d)). A request for a hearing **and a copy of this decision** should 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 the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

In accordance with commission 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

18th day of April 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: **Beth Cucchi**_____