



IMED, INC.

1819 Firman • Suite 143 • Richardson, Texas 75081
Office 972-381-9282 • Toll Free 1-877-333-7374 • Fax 972-250-4584
e-mail: imeddallas@msn.com

NOTICE OF INDEPENDENT REVIEW

NAME OF EMPLOYEE: _____
IRO TRACKING NUMBER: M2-06-1312-01
NAME OF REQUESTOR: _____
RESPONDENT: Texas Mutual Insurance Company
TREATING DOCTOR: Gregory D. Taylor, D.C. / J. Kevin Kaufman, M.D.
DATE OF REPORT: 06/13/06
IRO CERTIFICATE NUMBER: 5320

TRANSMITTED VIA FAX :

IMED, Inc. has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO).

In accordance with the requirement for TDI to randomly assign cases to IROs, TDI has assigned your case to IMED, Inc. for an independent review. The peer reviewer selected has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, the peer reviewer reviewed 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.

The independent review was performed by a matched peer with the treating physician. This case was reviewed by an M.D. physician reviewer who is Board Certified in the area of Neurological Surgery and is currently listed on the DWC approved doctor list.

I am the Secretary and General Counsel of IMED, 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 provider, the injured employee, 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. I further certify that no conflicts of interest of any nature exist between any of the aforementioned parties and any director, officer, or employee of IMED, Inc.

REVIEWER REPORT

I have reviewed the records forwarded on the above injured worker and have answered the questions submitted.

Information Provided for Review:

- 10/18/05 – X-rays from Family Radiology, 1 page.
- 11/03/05 – Health Source Injury & Sports Rehab Clinic, 2 pages.
- 11/03/05 – MRI of the lumbar spine without contrast, 2 pages.
- 12/05/05 – Letter from Center For Neurological Disorders, 2 pages.
- 12/22/05 – Bone scan, 1 page.
- 12/22/05 – CT of the lumbar spine, 2 pages.
- 12/22/05 – Nuclear medicine bone scan, 1 page.
- 12/22/05 – Lumbar spine MRI, 1 page.
- 12/22/05 – Lumbar spine flexion & extension, 1 page.
- 12/25/05 – CT of the lumbar spine, 2 pages.
- 01/23/06 - Letter from Center For Neurological Disorders, 2 pages.
- 02/01/06 – Health Source Injury & Sports Rehab Clinic, 2 pages.
- 02/13/06 – Center For Neurological Disorders, 2 pages.
- 02/23/06 – Texas Mutual Insurance Company UR review, 2 pages.
- 03/03/06 – Center For Neurological Disorders, 1 page.
- 03/13/06 – Texas Mutual Insurance Company utilization review, 1 page.
- 04/03/06 – Impairment rating, Stevan Cordas, D.O., 11 pages.
- 04/03/06 – Examination from Center For Neurological Disorders, 2 pages.
- 04/03/06 – Health Source Injury & Sports Rehab Clinic impairment rating rebuttal, 2 pages.
- 04/21/06 – Health Source Injury & Sports Rehab Clinic request for surgery, 1 page.
- 05/26/06 – Medical dispute letter Texas Mutual Insurance Company, 1 page.

Clinical History Summarized:

The claimant injured his low back in an accident at work on ____.

Plain x-rays of the lumbar spine on 10/18/05 revealed disc degeneration at L1-L2 and a large arthritic spur.

The claimant was seen by Dr. Taylor, a chiropractor, on 11/03/05, who diagnosed lumbar strain, lumbar radiculitis, herniated disc, degenerative disc disease, and lumbar myospasm with guarding.

A lumbar MRI scan was accomplished on 11/03/05, which showed a large 14 mm anterior disc bulge and 4 mm circumferential disc bulge posteriorly at L1-L2 resulting in severe right and moderate left neural foraminal narrowing with bony contusion between L1 and L2 vertebral body. There was also a central disc bulge at L4-L5.

Case No.: M2-06-1312-01

Page Three

The claimant underwent a neurosurgical consultation with Dr. Kaufman on 12/05/05. It was felt the claimant had an L1-L2 disc collapse and possible infection. Dr. Kaufman ordered additional studies including a bone scan.

On 12/22/05, a bone scan revealed increased uptake at L1-L2 likely due to degenerative changes only. A CAT scan of the lumbar spine on 12/22/05 revealed moderate changes of spondylosis at L1-L2 with disc material projecting anteriorly as well as posteriorly to the right causing narrowing of the right neural foramen. This was felt to be chronic with extensive sclerotic changes. There was also moderate disc disease at L4-L5 with narrowing of the right neural foramen.

Dr. Kaufman reexamined the claimant on 01/23/06 and prescribed medications.

Dr. Kaufman recommended surgery including a minimally invasive L1-L2 fusion with pedicle screw fixation on his report dated 02/13/06.

A Designated Doctor Evaluation was performed by Dr. Cordas on 02/20/06, who found the claimant to be at Maximum Medical Improvement (MMI) as of that date and assigned a 5% whole person impairment rating. Dr. Cordas' impressions included lumbar sprain, lumbar radiculopathy, lumbar myospasms, insomnia, muscle guarding, and lumbar intervertebral disc syndrome. Dr. Cordas felt the impairment rating would not change with either active medical treatment or surgical intervention.

On 02/23/06, the insurance carrier denied the surgery based upon review, stating there was no evidence of neurogenic claudication requiring decompression. There was also no evidence of a lumbosacral radiculopathy.

Dr. Kaufman recommended an EMG/NCV study and further imaging studies including MRA and vascular studies on his report dated 04/03/06.

The last report available for review is from Dr. Taylor dated 04/21/06 agreeing with the denial of the surgery.

Disputed Services:

Preauthorization request: L1-L2 TLIF with pedicle screws two days length of stay.

Decision:

Surgery is not medically necessary at this time.

Rationale/Basis for Decision:

The employee was 54 years old when he reportedly sustained an injury to the lumbar spine on _____. The employee reported that he was lifting heavy boxes and developed a back ache across his low back with pain into the bilateral legs.

The employee has undergone imaging studies which revealed degenerative changes at L1-L2 with disc space collapse and a circumferential anterior disc bulge measuring 14 mm and a posterior bulge measuring 4 mm. The bone scan revealed regenerative changes of the lumbar spine, and there was evidence of osteophytes and chronic changes. The employee has a significant history of femoral stint placement in 2002 which he noted had caused pain to the legs per the notes. The employee has not undergone any diagnostic blocks/epidural steroid injections or EMG testing to validate the presence of a true radiculopathy. He also has not had any facet provocation testing or blocks to establish a facetogenic relationship to the employee's pain. The employee has undergone therapy, medications, and activity modification. The employee is a smoker and has shown evidence of improvement of symptoms over time. Given the employee has shown improvement with his low back pain, has a history of smoking, and has not had sufficient workup to include or exclude a genesis of pain which may be resolved non-operatively, the surgery is not medically necessary.

References:

1. Official Disability Guidelines:

Not recommended for workers' compensation patients in the absence of spinal fracture, dislocation, spondylolisthesis if there is instability, and selected other conditions outlined below. In cases other than workers' compensation, after screening for biopsychosocial variables, outcomes are improved and fusion may be recommended for degenerative disc disease after at least six months of conservative therapy. For complete references, see separate document with all studies focusing on Fusion (spinal). There is limited scientific evidence about the long-term effectiveness of fusion for degenerative disc disease compared with natural history, placebo, or conservative treatment, but studies conducted in order to compare different surgical techniques have shown success for fusion in carefully selected patients. (Gibson-Cochrane, 2000) (Savolainen, 1998), (Wetsel, 2001) (Molinari, 2001) (Biggs, 1999) (Washington, 1995) (DeBanard-Spine, 2001) (Fritzelle-Spine, 2001) (Fritzelle-Spine, 2002) (Deyo-NEIM, 2004) (Gibson-Cochrane-Spine, 2005) (Socgaard, 2005) (Glassman, 2006) (Atlas, 2006). According to the recently released *AANA/NASS Guidelines*, lumbar fusion is recommended as a treatment for carefully selected patients with disabling low back pain due to one or two level degenerative disc disease after failure of an appropriate period of conservative care, but there is insufficient

evidence available to make this a treatment guideline. (Resnick, 2005). A recently published well respected international guideline, the “European Guidelines”, concluded that fusion surgery for nonspecific chronic LBP cannot be recommended unless two years of all other recommended conservative treatments, including multidisciplinary approaches with combined programs of cognitive intervention and exercises, have failed, or such combined programs are not available, and only then in carefully selected patients with maximum two level degenerative disc disease. (Airaksinen, 2006). For chronic LBP, exercise and cognitive intervention may be equivalent to lumbar fusion without the potentially high surgical complication rates. (Ivar Brox-Spine, 2003) (Keller-Spine, 2004) (Fairbank-BMJ, 2005) (Brox, 2006). Patients with increased instability of the spine after surgical decompression at the level of degenerative spondylolisthesis may be candidates for fusion. (Eckman, 2005). In acute spinal cord injury (SCI), if the spine is unstable following injury, surgical fusion and bracing may be necessary. (Bagnall-Cochrane, 2004). A study on improving quality through identifying inappropriate care found that use of guideline-based Utilization Review (UR) protocols resulted in a denial rate for lumbar fusion fifty-nine times as high as denial rates using non-guideline based UR. (Wickizer, 2004). The profit motive and market medicine have had a significant impact on clinical practice and research in the field of spine surgery. (Weiner-Spine, 2004) (Shah-Spine, 2005). Data on geographic variations in medical procedure rates suggest that there is significant variability in spine fusion rates, which may be interpreted to suggest a poor professional consensus on the appropriate indications for performing spinal fusion. (Devo-Spine, 2005). Workers’ compensation has been associated with especially poor outcomes after surgery. (Harris-JAMA, 2005). Outcomes from demanding surgical fusion techniques are no better than the traditional posterolateral fusion without internal fixation. (van Tulder, 2006). Presurgical biopsychosocial variables predict patient outcomes from lumbar fusion, which may help improve patient selection. Workers’ compensation status, smoking, depression, and litigation were the most consistent presurgical predictors of poor patient outcomes. Also, predictors were number of prior low back operations, low household income, and older age. (DeBenard-Spine, 2001) (DeBernard, 2003) (LaCoille, 2005) (Trief-Spine, 2006). A major study is underway which aims to identify characteristics that result in better patient selection for surgery. (Devo, 2005). Lumbar spinal fusion surgeries use bone grafts and are sometimes combined with metal devices to produce a rigid connection between two or more adjacent vertebrae. The therapeutic objective of spinal fusion surgery for patients with low back problems is to prevent any movement in the intervertebral spaces between the fused vertebrae, thereby reducing pain and any neurological deficits.

Patient Selection Criteria for Lumbar Spinal Fusion:

For chronic low back problems, fusion should not be considered within the first six months of symptoms, except for fracture or dislocation. Indications for spinal fusion may include 1) neural arch defect – spondylolytic spondylolisthesis, congenital unilateral neural arch hypoplasia; 2) segmental instability 0 excessive motion, as in degenerative spondylolisthesis, surgically induced

Case No.: M2-06-1312-01

Page Six

segmental instability; and 3) primary mechanical back pain/functional spinal unit failure (in cases other than workers' compensation) multiple pain.

YOUR RIGHT TO REQUEST A HEARING

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 thirty (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. A request for a hearing should be faxed to 512-804-4011 or sent to:

Chief Clerk of Proceedings/Appeals Clerk
TDI-Division of Workers' Compensation
P.O. Box 17787
Austin, TX 78744

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

If you are disputing the 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 thirty (30) days after the date on which the decision that is the subject of the appeal is final and appealable.

I hereby verify that a copy of this Independent Review Organization's decision was sent to the respondent, the requestor, DWC, and the injured worker via facsimile or U.S. Postal Service this 16th day of June, 2006 from the office of IMED, Inc.

Sincerely,



Charles Brawner
Secretary/General Counsel