

# **MATUTECH, INC.**

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June 5, 2006

Rebecca Farless  
Texas Department of Insurance  
Division of Worker's Compensation  
Fax: (512) 804-4871

Re: Medical Dispute Resolution  
MDR Tracking #: M2-06-1323-01  
DWC#: \_\_\_\_\_  
Injured Employee: \_\_\_\_\_  
DOI: \_\_\_\_\_  
IRO#: IRO5317

Dear Ms. Farless:

Matutech, Inc., has performed an Independent review of the medical records of the above-named case to determine medical necessity. In performing this review, Matutech reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

Matutech certifies that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him 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 Independent Review Organization.

Information and medical records pertinent to this medical dispute were obtained from J Brandon Lewis, M.D, Dmitriy Buyanov, M.D., Premier Pain Consultants, Rehab Therapy Resources, Lloyd Youngblood, M.D., Michael Barker, M.D., and Texas Mutual. The Independent review was performed by a matched peer with the treating health care provider. This case was reviewed by the physician who is licensed in Orthopedics and is currently on the DWC Approved Doctors List.

Sincerely,



John Kasperbauer  
Matutech, Inc.

## **REVIEWER'S REPORT**

### **Information provided for review:**

#### Request for Independent Review

#### Information provided by J. Brandon Lewis, M.D.:

Clinic notes (10/17/03 - 03/16/06)  
Radiodiagnostic report (04/07/04)

#### Information provided by Dmitriy Buyanov, M.D.:

Clinic notes (08/01/05)

#### Information provided by Premier Pain Consultants:

Clinic notes (08/01/05)

#### Information provided by Rehab Therapy Resources:

Clinic notes (06/20/05)

#### Information provided by Lloyd Youngblood, M.D.:

Clinic notes (05/15/04 - 02/28/06)  
Radiodiagnostic study (04/07/04 & 08/03/05)  
Operative report (09/15/04)

#### Information provided by Michael Barker, M.D.:

Clinic notes (01/25/05)

#### Information provided by Texas Mutual:

Clinic notes (10/17/03 - 02/28/06)  
Operative notes (09/15/04)  
Radiodiagnostic studies (08/03/05)  
Pre-authorization denial (08/31/05 & 01/13/06)  
The statement with respect to the dispute (05/25/06)

### **Clinical History:**

The claimant is a 70-year old male who injured his back. He pulled a patient in an electric wheelchair out of a muddy area. He had to pull the chair very hard.

**2003–2004:** J. Brandon Lewis, M.D., treated the patient for low back and upper back strain, and left leg pain with Naprosyn and Flexeril. The other diagnosis was right inguinal hernia for which referral to a surgeon was made. After completion of physical therapy (PT), the upper and lower back strains resolved. Ren Jaso, M.D., performed right inguinal hernia repair on January 21, 2004. However, the patient returned to Dr. Jaso for development of a left inguinal hernia. Dr. Lewis saw the patient for recurrence of back pain with muscle spasms. X-rays showed some narrowing at L5-S1. Magnetic resonance imaging (MRI) of the lumbar spine showed a combination of a circumferential bulging disc, spondylosis, facet hypertrophy, and prominent ligamentum flavum at L4-L5 resulting in relative central stenosis; a mild circumferential bulging of the disc at L5-S1 with slight narrowing of the disc space. Vioxx was refilled. Neurosurgeon Lloyd Youngblood, M.D., noted hypalgesia in the right S1 distribution; and hypoactive to absent knee and ankle jerks. On September 15, 2004, Dr. Youngblood performed decompressive laminectomy, partial medial facetectomy, foraminotomy, and nerve root decompression at bilateral L4-L5 and L5-S1; and posterior lumbar interbody fusion (PLIF) from L4 through S1. Dr. Lewis prescribed Prozac for depression. Postoperative x-rays showed good position of the instrumentation and a large amount of bone graft. A rehab program was recommended.

**2005:** Michael Barker, M.D., a physiatrist, planned for a course of PT and prescribed Ultracet. Dr. Lewis indicated that the patient had completed PT. He prescribed Cymbalta for depression. Mark Sanders, M.D., a designated doctor, assessed clinical maximum medical improvement (MMI) as of April 8, 2005, and assigned 7% whole person impairment (WPI) rating. Dr. Barker did not concur with this and felt it should have been 22%. Gary Whiteline, Ph.D., recommended 12 sessions of health and behavioral intervention. Dr. Youngblood noted that the patient had numbness in his feet and in all the toes. The patient also had occasional bladder urgency. Examination revealed paraspinal muscle spasms bilaterally. Tenderness was present over the lumbar midline as well as the bilateral paravertebral areas and the bilateral SI joints. There were trigger points palpable over the bilateral paravertebral musculature. Range of motion (ROM) was limited secondary to pain. Patrick-FABERE's, iliac compression, Kemp's, and straight leg raise (SLR) tests were positive bilaterally. Sensation was slight decreased at S1 bilaterally.

An MRI of the lumbar spine showed postoperative changes of anterior and posterior fusion from L4 through S1; high-grade stenosis at L3-L4 in combination with a diffuse disc bulge and facet hypertrophic changes with a superimposed 1-cm right L3-L4 facet synovial cyst. Dr. Youngblood felt that these findings clearly represented junctional disease at the superior end of the construct. He requested permission to proceed with partial explantation of the plates, decompressive laminectomy, foraminotomy, interbody fusion, and posterolateral fusion at the L3-L4 level. However, the carrier denied the request for the following reasons: X-rays showed evidence of good solid fusion, but showed inconsistent evidence of adjacent level disease, certainly none requiring a fusion technique. Psychological evaluation also argued against aggressive surgical approach. In December, Dr. Youngblood reviewed the MRI and noted severe central spinal stenosis and neuroforaminal stenosis at L3-L4, resulting in compression of cauda equina. He requested for immediate approval of the surgery.

2006: Dr. Lewis continued treatment with Prozac and started Neurontin. On January 13, 2006, carrier denied the request of the surgery for the reason that MRI review had shown L1-L4 degenerative changes and spinal stenosis. There was no evidence of instability in light of multiple level degenerative changes. As a matter of fact, it was contraindicated. Dr. Youngblood noted complaints of continued and severe refractory low back pain and bilateral lower extremity pain. The patient also complained of incontinence of urine at night. Dr. Youngblood again requested permission to proceed with the surgery, or else he offered to release the patient from his medical care.

**Disputed Services:**

Explantation of Steffee instrumentation at L4-S1; re-exploration of bilateral L4-L5 laminectomy and foraminotomy; L3-L4 decompression lumbar laminectomy, foraminotomy, posterolateral fusion with iliac crest bone graft, roc pedicle screws, posterior lumbar interbody fusion with Brantigan cages and autograft.

**Explanation of Findings:**

The claimant is a 70 year old male who sustained a lower back injury on \_\_\_\_, and underwent subsequent lumbar discectomy and lumbar fusion from L4-S1 in September 2004. The patient continued to develop pain and neurologic symptoms. Subsequent MRI scan done on August 3, 2005, revealed high grade stenosis at L3-4 with diffuse disc bulge, facet hypertrophy and 1 cm face synovial cyst. The patient continues with progressive symptoms compatible with cauda equina syndrome.

**Conclusion/Decision To Uphold, Overturn or Partially Uphold/Overturn denial:**

The decision is to overturn denial. Decompression lumbar laminectomy with fusion at L3-4 appears to be reasonable and necessary.

**Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:**

Claimant underwent a lumbar fusion from L4-S1. This fusion has subsequently aggravated the pre-existing level above the fusion mass. This has caused stenosis and a facet synovial cyst resulting in the patient's pain and neurological symptoms. With this severe amount of stenosis and neurologic symptoms, lumbar laminectomy with decompression and fusion appears to be reasonable and necessary.

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The physician providing this review is an orthopedic surgeon. The reviewer is national board certified in orthopedic surgery. The reviewer is a member of the American Academy of Orthopedic Surgeons. The reviewer has been in active practice for 20 years.

Matutech is forwarding this decision by mail and in the case of time sensitive matters by facsimile. A copy of this finding to the provider of records, payer and/or URA, patient and the Texas Department of Insurance.

Matutech retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by Matutech clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the Utilization Review Accreditation Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by Matutech represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to Matutech for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Matutech assumes no liability for the opinions of its contracted physicians and/or clinician advisors the health plan, organization or other party authorizing this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

#### 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.