



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

INJURED EMPLOYEE: _____
IRO CASE NUMBER: M2-06-1301-01/M2-06-1351-01
NAME OF REQUESTOR: _____
NAME OF RESPONDENT: Liberty Insurance Corporation
REVIEWED BY: Board Certified Orthopedic Surgeon
IRO CERTIFICATION NO.: IRO 5320
DATE OF REPORT: 05/20/06

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, Division of Workers' Compensation (DWC) to randomly assign cases to IROs, TDI-DWC 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 a physician reviewer who is Board Certified in the area of Orthopedic Surgery.

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, 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. 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.

Medical Records Provided for Review:

1. MRI report lumbar spine 06/23/05.
2. Discogram with CT scan 02/16/06.
3. Provocative discogram report, Dr. Rosenfield, 02/16/06.
4. Medical records, Dr. Todd Raabe.
5. Medical review, Dr. Bruce Gillingham, Orthopedic Surgeon, 03/06/06.
6. Unsigned peer review from Medical Review Institute of America, 03/28/06.
7. Letter of appeal on decision for denial, Dr. Todd Raabe, 03/24/06.

Clinical History Summarized:

This claimant is a 49 year old male, who has been followed for nearly three years with intractable low back and left lower extremity pain which has been refractory to nonsurgical treatment.

The claimant has undergone EMG studies, CT/myelogram, and discogram, along with EMG/NCV studies. The claimant is neurologically intact, and the EMG demonstrated no radicular components. The provocative discogram demonstrated concordant pain at the L5-S1 level, and the MRI demonstrated some disc protrusion at L4-L5 and L5-S1. The discogram demonstrated fairly normal disc architecture at L4-L5 with abnormal degeneration of the L5-S1 lumbar disc.

Due to failure of the nonsurgical treatment, the spine surgeon, who has been evaluating the claimant, has recommended a Charite disc replacement procedure at the L5-S1 level with four day hospitalization. This procedure has been denied by the carrier. Dr. Raabe has appealed this denial decision.

The medical literature on this procedure is somewhat sparse. However, Blumenthal, et al, states that in a study of 205 cases of disc replacement compared to 99 cases of anterior lumbar interbody fusion, the clinical outcome using the Charite artificial disc was at least equivalent to the outcome of an anterior lumbar interbody fusion. This study was published in *Spine*, July, 2005. There were statistically lower pain and disability scores reported at each time interval except at the end point of the study at twenty-four months. The pain and disability scores were then approximately equal at that time. The conclusion was that the Charite disc replacement produced equivalent outcomes with interbody fusion cases.

Disputed Services:

Preauthorization request: L5-S1 Charite disc arthroplasty with four days inpatient hospitalization.

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Decision:

The records support the request for the Charite disc replacement procedure with four days hospitalization.

Rationale Basis for Decision:

The literature evaluating this procedure is sparse, but Blumenthal's study published in *Spine*, July, 2005 states that the procedure is at least as effective as anterior interbody fusion. If the procedure does not give the desired result, a fusion could then be performed as a salvage procedure. The preservation of some mobility in the L5-S1 joint would decrease the stress and subsequent disc degeneration at the level above the fusion. The preserved mobility would tend to allow the claimant to have a more normal lifestyle.

For these reasons, it is my opinion that the procedure with four day hospitalization should be authorized.

The rationale for the opinions stated in this report are based upon clinical experience and standards of care in the area, as well as broadly accepted literature which includes numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

We are simultaneously forwarding copies of this correspondence to requestor, the treating doctor, the payor, your provider of records, and the Texas Department of Insurance. The utilization review agent/payor is required to comply with the IROs medical review determination on this case.

This review was conducted on the basis of medical and administrative records provided with the assumption that the material is true and correct.

This decision by the reviewing physician with IMED, Inc. is deemed to be a DWC decision and order.

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.

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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 512-0804-4011 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 the dispute.

I hereby verify that a copy of this Independent Review Organization's decision was sent to the respondent, the requestor, DWC, and the patient via facsimile or U. S. Postal Service this 22nd day of May, 2006.

Sincerely,



Charles Brawner
Secretary/General Counsel

Dr. Todd Raabe via fax 903-592-7282
TDI DWC via email and fax
___ via US Mail
Liberty Ins Corp, Carolyn Guard Via Fax 574-258-5349