

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 7/31/06

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-1609-01
Name of Patient:	_____
Name of URA/Payer:	Texas Mutual Insurance
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Robert J. Henderson, MD

July 21, 2006

An independent review of the above-referenced case has been completed by a physician board certified in neurosurgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on the Division of Workers' Compensation Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

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Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: _____
Robert Henderson, MD
Dave Davidson, DC
Division of Workers' Compensation

July 21, 2006

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RE: ____

DOCUMENTS REVIEWED

1. Notification of IRO Assignment.
2. Hollander Chiropractic clinic notes dating from 12/8 onward.
3. MRI report from 12/9/05.
4. Emergency room notes on 12/12/05 describing fainting spells.
5. Office notes from Dr. Winston Whitt, multidisciplinary and pain management note dated 12/16/05.
6. IME evaluation dated 3/22/06 which finds the patient not at MMI. This was performed by Darrell English, D.O.
7. MRI scan of the lumbar spine dated 3/31/06.
8. Dr. Pamela Cunningham office notes, apparently she is a pain management physician, dated from 4/5/06.
9. Dallas Spine Care notes, Dr. Robert J Henderson dated 4/26/06.

CLINICAL HISTORY

This is a 28-year-old gentleman who was injured at work on _____. He was a welder and apparently was carrying a large piece of metal when he got his feet tangled and fell in what he describes as different directions. He then developed low back pain. He had a previous surgery in his back but apparently he was not having any symptoms prior to this episode. The patient describes pain in his low back that is present all of the time that extends into both of his legs with numbness and tingling all the way down his legs. It is worse with any type of valsalva and virtually any type of position including recumbent. Since that time he has had chiropractic management, he's had evaluations by pain management physicians and he has refused epidural injections. His imaging studies have included an MRI scan dated 12/9/05 which found him to have an 8mm disc bulge at L5 resulting in effacement of the intradural epidural fat abutting the ventral thecal sac and S1 nerve roots. However, it is noted that the central canal is quite spacious and no compression for nerves are described. He had a second MRI scan on 3/31/06 which showed very similar results. He has also had plain x-rays which show disc space degeneration at L5 as well as enlarged facets at L4. His situation has

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been reviewed by Dr. Robert J Henderson. Dr. Henderson has seen this patient twice and on his April 26th visit a posterior lumbar interbody fusion at L5 with wide decompression transverse process fusion and segmental pedicle fixation was recommended. Incidentally the patient has also had nerve conduction studies performed by Dr. Trevor Crane in January 2006. This showed decreased conduction velocity in bilateral tibial nerves as well as the right sensory sural nerves. Somehow these results have been described as being consistent with sensory neuropathic changes which in fact they are, but also a lumbar radiculopathy which cannot be diagnosed based upon this particular study.

REQUESTED SERVICE(S)

Posterior lumbar interbody fusion at L5 with wide decompression transverse process fusion and segmental pedicle fixation.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

This gentleman has not definitely been diagnosed with any condition warranting this procedure. He has been described as having radiculopathy. His chief complaint is of low back pain but there is relatively minimal pathology related to that on his two MRI scans. The patient has had a checkered past with epidural injections, having had four blocks and one being described as breaking off in his spine, thus he is not interested in any of these. However, there are other managements available to this patient. Recommendation by Dr. Edward Bezel in *Textbook Surgery for Low Back Pain* is that a multi modality conservative management with duration of no less than one year should be performed prior to a consideration of back surgery for back pain. *Youmans Textbook of Neurosurgery* recommends at least two of three of the following being positive prior to surgery being undertaken for neurologic compression. These factors are physical exam, positive EMG, not nerve conduction studies, as well as positive imaging studies. This gentleman fails on all three accounts; therefore, surgery for degenerative low back symptoms as well as surgery for neurologic complaints cannot be justified. Finally, it is

unclear why such an aggressive procedure would be performed on this patient if the focus has been on spinal stenosis and nerve compromise. No case has been made for instability either from an orthopedic standpoint or even from a degenerative standpoint, specifically, substantial degenerative disc disease or what has been commonly called a "painful disc" have not been diagnosed.

The Cybertech TLSO brace is only appropriate with a fusion situation; because the surgical procedure is not warranted, the TLSO brace also is not warranted.

Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the provider 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 before referral to the IRO.

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.

Chief Clerk of Proceedings
Division of Workers' Compensation
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with 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 24th day of July, 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell