

MEDICAL REVIEW OF TEXAS

[IRO #5259]

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-1682-01
Name of Patient:	
Name of URA/Payer:	Florist Mutual Insurance Co.
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Douglas Won, MD

August 3, 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.

August 3, 2006
Notice of Independent Review Determination
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Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: _____
Douglas Won, MD
Division of Workers' Compensation

RE: ____

DOCUMENTS REVIEWED

1. Notification of IRO Assignment.
2. Southwest Spine Institute Evaluations, Dr. Douglas Won.
3. Plano Radiology Center, operative reports including lumbar epidural spinal injections as well as evaluations prior to those injections.
4. Clearsky Imaging dictating an unenhanced lumbar spine MRI scan 1/28/05.
5. Provocative myelogram performed 9/12/05 outlying a severe concordant low back pain at both L4 and L5.
6. What would appear to be legal documents from Stone, Loughlin & Swanson, LLP.
7. Office notes from Dr. Donald Maudlin, Orthopedic surgeon dated 4/6/06. This is an IME.
8. MMI evaluation performed on 7/10/06 by Dr. Daniel Thompson.
9. Lewisville Open MRI scan of the lumbar spine 12/24/03.
10. Multiple clinic notes from Denton Chiropractic Center.
11. Office notes from a minor emergency of Denton.
12. Office notes from Dr. Eric Gioia, neurologic surgeon dated 2/22/05. This is where the lumbar Discogram request originally arose.

CLINICAL HISTORY

This is now a 46-year-old woman who on ____ was lifting a box of plants off of a bed and she then developed some very substantial low back pain and to varying degrees both right and left leg pain. She was seen in minor emergency and then referred for physical therapy which she completed within the month and was sent back to regular duties with some restrictions. She was taken off work after changing her treating physician to a chiropractor and she began having chiropractic manipulations in addition to physical therapy. She continued to complain of both low back and to varying degrees, bilateral leg pain. She had an MRI scan approximately 2 ½ months after her injury which showed a modest L4 broad based disc bulge just to the right of the midline touching only the ventral roots and the ventral thecal sac. She is also noted at L5 to have some facet arthropathy and a tiny little disc bulge. A neurologic exam was

RE: _____

essentially within normal to this point. Ten months after her injury she had a Discogram which found her to have severe concordant pain at both L4 with some radiation into her legs as well as severe concordant pain in her low back at L5. She was ultimately referred for epidural steroid injections; unfortunately they did not give her long lasting relief. The surgeon found her to be at least 50 pounds overweight and he recommended that she lose weight before a surgical procedure was performed. Of note, she is found to be 4ft. 6 ½ in. tall weighing 200 pounds. She then had an FCE 16 months after her injury. This is where we begin to have some difficulty. She was noted to have inappropriate behavior as well as inconsistencies in effort. The IME found her to have a non physiologic exam with subjective left sided back pain radiating into the buttocks as well as both left leg pain; she was also noted to have stocking glove anesthesia.

She had an MMI and again was found to have significant symptom magnification. Both of these physicians strongly discouraged any surgical treatment of this patient particularly because of her morbid obesity, but also because of her symptom magnification. They took special pains to support their positions.

REQUESTED SERVICE(S)

Anterior discectomy at L4 and L5 with fusion, instrumentation, L4/L5 with cages x2, bmp, posterior laminectomy at L4 to S1 with fusion and instrumentation at L4 to S1 with local auto graft.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

This 46-year-old woman is rather difficult to deal with; her chief complaint being low back pain. A lot turns on the Discogram that was performed that shows both L4 and L5 concordant pain. This is a little unusual, but the most compelling reason not to perform this is that two of the physicians involved have found her to have substantial symptom overlay and symptom magnification. Both took great pains

RE: ____

to forward the contention that a surgical procedure would be extremely inappropriate. While a Discogram is good evidence, it is the only positive evidence that there is anything of any consequence in this patient's lumbar spine. It is insufficient to overwhelm the considered opinions of the two examining physicians who felt that her psychiatric overlay was bad enough to prevent a positive outcome from surgery. It is well known that this is one of the risk factors for a lumbar spine fusion and is a legitimate disqualifying factor. Further, the patient's morbid obesity will have a profoundly negative impact on the outcome of lumbar spine surgery. If this patient can demonstrate her ability to lose this weight, and shows a willingness to participate in her own care then the surgical fusion could be re-addressed. The rationale and basis for this is supported by much of the neurosurgical literature including ***Benzels Surgical Treatment of Low Back Pain, Wilkins Operative Neurosurgery, Yeomen's Textbook of Neurosurgery*** and also the ***Occupational Medicine Practice Guidelines***.

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 4th day of August, 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell