



## IMED, INC.

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### NOTICE OF INDEPENDENT REVIEW

**NAME OF EMPLOYEE:**  
**IRO TRACKING NUMBER:** M2-06-1761-01  
**NAME OF REQUESTOR:** Injured Employee  
**NAME OF CARRIER:** Beaumont ISD/Crawford & Company  
**DATE OF REPORT:** 08/29/06  
**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 Neurosurgery 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:**

- Letter of Appeal from Ms. Dorothy Lewis.
- Employer's First Report of Injury or Illness.
- MRI right shoulder dated 06/25/03.
- 08/18/03, Interpretation of radiographs by David Tuescher, M.D.
- 08/18/03, Initial office consultation, David Tuescher, M.D.
- 08/25/03, X-rays, Eric A. Marks, M.D.
- 08/25/03, X-ray of right knee and x-ray of the left knee by Charles S. Day.
- 09/16/03, Thyroid scan by Peter Agomuo, M.D.
- 10/16/03, MRI of the lumbar spine, Peter Agomuo, M.D.
- 10/16/03, Bone densitometry, Stephen Cherewaty, M.D.
- 12/18/03, I.V.P.- I.V.U. by Alka Kumar, M.D.
- 01/16/04, William Denman, D.C., initial report.
- 01/19/04 – 02/13/04, Daily chiropractic notes from William Denman, D.C.
- 02/21/04, Peer review by Dr. Gregory Baker, D.C.
- 03/16/04, RME Evaluation, Ron Kirkwood, D.O.
- 04/28/04, Follow-up note, Omar Vidal.
- 05/12/04, Beaumont MRI by Boris Payan, M.D.
- 05/28/04, Letter of medical necessity, William Denman, D.C.
- 07/19/04, Functional Capacity Evaluation.
- 08/04/04, Follow-up office visit, Omar Vidal.
- Radiology report, 08/24/04, from Edward Knudson.
- Follow-up office visit, Omar Vidal, 09/01/04.
- 10/12/04, Golden Triangle Neurocare, Erwin Lo, M.D.
- 11/09/04, Needle EMG.
- 11/17/04, Erwin Lo, M.D.
- 12/15/04, Operative report, Omar Vidal, M.D.
- 02/23/05, IME, Dr. James Hood.
- Follow-up office visit, Boris Payan, M.D.
- 05/20/05, CT scan.
- 06/16/05, Erwin Lo, M.D.
- 06/28/05, Denial.
- 07/18/05, Designated doctor report, Pedro Ochoa, M.D.
- 08/13/05, Follow-up Dr. Ochoa.
- 01/09/06, Designated Doctor Evaluation, Pedro Ochoa, M.D.
- 02/24/06, Peer review, Charles Kennedy, M.D.
- 02/26/06, Peer review, Charles Kennedy, Jr., M.D.
- 03/15/06, Dr. Vidal.
- MRI, CT, 03/21/06.

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- 03/21/06, Richard Francis, M.D.
- 03/27/06, Radiology report, Stanley Lim, M.D.
- 04/25/06, Richard Francis, M.D.
- 05/05/06, Denial for requested services from Fara Healthcare Management.
- 05/22/06, Peer review disagreement, William Denman, D.C.
- 07/18/06, RME, Dr. James Hood.

**Clinical History Summarized:**

The injured employee was working scraping tape off a shelf on \_\_\_ when she injured her back and leg.

There was a lumbar spine, two view, x-ray dated 08/25/03, which revealed small compression deformities seen along the superior margin of both L1 and L4.

There was an x-ray on 09/16/03.

On 10/16/03, there was an MRI of the lumbar spine. The impression was 10% to 20% compression fracture, subacute/old L4 vertebrae, no significant disc herniation, compromise of the nerve roots or spinal canal.

10/06/03 - Bone densitometry

12/18/03 – IVP/IVU intravenous urogram - The conclusion was mild cystocele. No upper tract abnormalities were demonstrated.

09/25/03 – Right knee and left knee x-rays

08/18/03 – David Tuescher - It was Dr. Tuescher's opinion that the injured employee did not require further treatment of the knee. He indicated the lower back, upper chest, and parascapular area should be treated with physical therapy. He also interpreted the radiographs and indicated an AP and lateral x-ray of the left knee was unremarkable.

08/18/03 – Initial office consultation with David Tuescher – The diagnostic impression was left knee pain resolved, intermittent right knee effusion resolved, lower back pain with possible left lower extremity radicular complaints, without evidence of radiculopathy, and severe motor vehicle accident over a year ago, with right anterior superior chest wall pain and parascapular pain, with evidence of a rotator cuff tendon tear. Additional treatment of the knees was not indicated.

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01/16/04 through March of 2004 – William Denman, D.C., chiropractic treatment

02/21/04 – Peer review from Dr. Kirkwood

04/28/04 – Follow-up visit with Omar Vidal – Dr. Vidal increased the injured employee's Neurontin to 600 mg., as well as Baclofen 20 mg., one tablet. He also suggested that a bilateral L3-L4 and L4-L5 bilateral foraminal nerve block be performed.

05/12/04 – A transforaminal nerve block bilateral L4-L5 and L5-S1 was performed by Boris Payan.

05/28/04 – A letter of medical necessity of an electrical muscle stimulator from William Denman, D.C.

07/19/04 – Functional Capacity Evaluation (FCE) dated 07/19/04

Follow-up note dated 09/01/04, with Dr. Vidal. Continued therapy was recommended.

08/24/04 – MRI of the lumbar spine - The impression was apparent anterior compression fracture or wedging of L4, diffuse disc protrusions were present at the L3-L4 and L4-L5 levels

10/12/04 – Dr. Erwin Lo – Diagnosis chronic degenerative disc disease, with several axial back pain and lumbar spinal stenosis with radiculopathy.

12/15/04 – Operative report from Omar Vidal

02/23/05 – Independent Medical Examination (IME) from James Hood – Dr. Hood could not correlate the MRI and discography findings with the need for Dilaudid, Fentanyl, and Actiq. Dr. Hood stated this was the type of pain regimen that was given to terminally ill cancer patients.

06/16/05 – The claimant returned to Dr. Erwin Lo. He recommended a two level lumbar interbody fusion.

07/18/05 – Designated doctor report from Pedro Ochoa, M.D. He stated the injured employee was not at MMI.

On 02/24/06 – Peer review from Dr. Charles Kennedy. He stated the injured employee was with 5% whole person and the right knee problem should not be allowed as far as the impairment.

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02/24/06 – Peer review, Dr. Charles Kennedy

MRI, CT Radiology Report - 03/27/06 by Stanley Lim, M.D. - The impression was anterior wedge compression fracture of the L4 vertebral body, with the anterior aspect of the L4 vertebral body maintaining 50% of its original height.

03/21/06 – Richard Francis, M.D. – Dr. Francis’ assessed chronic low back pain, osteoporotic compression fracture, discogenic pain L3-L4 and L4-L5, and night pain. He recommended an updated MRI study of the lumbar spine.

04/25/06 – Richard Francis – Dr. Francis recommended a fusion at L3-L4 and L4-L5 levels, with posterior pedicle screws and rods being placed.

05/22/06 – There was peer review disagreement from Dr. William Denman. Dr. Denman did not agree with Dr. Charles Kennedy’s peer review.

07/18/06 – Dr. James Hood – RME – Dr. Hood noted the only option for the injured employee was surgical procedure. He also felt 50% impairment was correct.

**Disputed Services:**

Items in Dispute: Posterior spinal fusion L3-L4, L4-L5 and bilateral foraminal decompression L3-L5, LSO brace, ten day cryo-therapy unit rental, and bone growth stimulator.

**Decision:**

Denial upheld.

**Rationale/Basis for Decision:**

The records as presented indicate few choices remain for this employee. However, the records do not indicate that the employee has exhausted conservative treatment at this time. The employee clearly has psychological issues which may or may not have been treated. The employee’s serial BDI is improved, but her BAI remains significantly elevated. The decrease in BDI suggests the employee has received some treatment. However, this was not documented in the records. I would further note that given the clear comorbid psychiatric issues that at a minimum one would expect a presurgical clearance by a psychiatrist. The employee’s psychiatric state at the time of operative intervention would largely determine her response to this extensive operative intervention. Surgery prior psychiatric clearance would certainly result in an employee with failed back syndrome. The employee has an extensive and chronic myofascial pain syndrome

with chronic paraspinal muscle spasms that does not appear to have been adequately addressed. Serial examinations suggest this is a large part of the employee's subjective reports. There was no indication that the employee has been tried on an antispasmodic medication such as Baclofen in an attempt to reduce or eliminate her chronic spasticity. Lastly, the employee's bone densitometry indicates the presence of osteoporosis. There was no indication this has been treated. The presence of low bone density compounds the probability that the employee would develop a pseudoarthrosis or postoperative syndrome. The records presented failed to establish the medical necessity of extensive operative procedure.

**References:**

1. The *American College of Occupational and Environmental Medicine Guidelines*. Accessed: 08/28/06.
2. S. Terry Canale, M.D., *Campbell's Operative Orthopedics*, 10<sup>th</sup> Edition, University of Tennessee-Campbell Clinic, Memphis, TN, Le Bonheur Children's Medical Center, Memphis, TN ISBN 0323012485.
3. Mark S. Greenberg, Nicolas, M.D., Arredondo (Contributor), Edward A. MN., M.D. duckworth (Contributor): *Handbook of Neurosurgery*: Thieme Medical Publishers; 6<sup>th</sup> Edition (October 1, 2005).
4. The *Official Disability Guidelines*, 11<sup>th</sup> Edition. The work Loss Data Institute. Accessed: 08/28/06.

The rationale for the opinion stated in this report is based on the above mentioned references, the record review, as well as the broadly accepted literature to include numerous textbooks, professional journals, nationally recognized treatment guidelines and peer consensus.

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.

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

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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.

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 13<sup>th</sup> day of September, 2006 from the office of IMED, Inc.

Sincerely,



Charles Brawner  
Secretary/General Counsel