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**NOTICE OF INDEPENDENT REVIEW DECISION**

September 22, 2006

**Re: IRO Case # M2-06-1919 –01 \_\_\_\_\_**

Texas Department of Insurance, Division of Workers' Compensation:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) by the Texas Department of Insurance and has been authorized to perform independent reviews of medical necessity for Division of Workers' Compensation cases. Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that the Division of Workers' Compensation assign cases to certified IROs, this case was assigned to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery, and who has met the requirements for the Division of Workers' Compensation Approved Doctor List or who has been granted an exception from the ADL. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed services
2. Denial letters
3. Letter to IRO from carrier 9/6/06
4. Follow up note 7/10/06, Dr. Rosenstein

5. Lumbar CT myelogram reports 6/19/06, 2/24/05
6. Initial examination report 5/12/03, Dr. Kirkdorffer
7. Lumbar operative report 7/23/04
8. Lumbar MRI reports 1/25/05, 5/2/06
9. North Texas Pain Recovery notes 5/3/06, 8/9/06

#### History

The patient is a 44-year-old male who in 2003 was lifting 60-70 pound boxes and developed back pain, which extended into both lower extremities. He had a history of an L5-S1 surgical procedure, probably for disk removal, in 1999. The patient did not get help from conservative measures. A 6/27/03 MRI showed L4-5 disk herniation. His symptoms persisting, the patient was taken to surgery on 7/23/04, where disk herniation removal was carried out at the L4-5 level. There was no significant improvement following the surgery. The patient has continued to have intermittent discomfort in his back and lower extremities. A 2/24/05 lumbar CT myelogram showed some question of L5 nerve root compression being present. A repeat CT myelogram on 6/19/06 showed an increase in the amount of L4-5 disk herniation, with increase in L5 nerve root compression.

#### Requested Service(s)

Lumbar fusion @ L4-5, L5-S1 x 3 LOS.

#### Decision

I disagree with the carrier's decision to deny the requested surgery.

#### Rationale

The patient's symptoms have continued for two years since an operative procedure that was supposed to care for them. There is evidence on CT myelography not only of recurrent or residual disk herniation with nerve root compression, but of actual increase of the severity of that from 2/24/05 to 6/19/06. In addition to the L4-5 surgical procedure for which fusion is indicated, the patient has had an L5-S1 operation, and fusion at that joint, with the chronic changes that are present is also indicated – fusing after recurrent disk herniation has occurred, in an effort to prevent a future such occurrence, and to stabilize the spine, is within the standard of care.

This medical necessity decision by an Independent Review Organization is deemed to be a Worker's Compensation decision and order.

### **YOUR RIGHT TO APPEAL**

If you are unhappy with all or part of this decision, you have a right to appeal the decision. The decision of the Independent Review organization is binding during the appeal process.

If you are disputing a decision other than a spinal surgery prospective decision, the appeal must be made directly to the district clerk in Travis County (see Texas Labor Code sec. 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.

