

Rationale/Basis for Decision

The only indication being offered to justify the performance of this 360 degree multi level lumbar fusion is "persistent pain". Such procedures when performed without objective physical findings of compressive neuropathy have a reasonably high complication rate, reasonable high failure rate, and reasonable high rate of subsequent surgery.

The appropriate indications for the performance of such a surgical procedure would include lumbar stenosis requiring decompression which would reasonably be expected to produce instability, the presence of documented lumbar instability, the presence of lumbar deformity with documented progression, or the presence of lumbar deformity requiring correction. Absent of any of these indications, the performance of this type lumbar fusion is not likely to yield acceptable results.

This decision by the IRO is deemed to be a DWC decision and order.

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.

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for hearing and a **copy of this decision** must be sent to: Chief Clerk of Proceedings/Appeals Clerk, Texas Department of Insurance, Division of Workers' Compensation, P.O. Box 17787, Austin, Texas, 78744, Fax: 512-804-4011.

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The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in this dispute.

Sincerely,

Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:dm
Attachment

cc: _____, Injured Worker
Program Administrator, Medical Review Division, DWC

In accordance with Division 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 8th day of November 2006.

Signature of IRO Employee:

Printed Name of IRO Employee:

Information Submitted to TMF for Review

Patient Name: ____

Tracking #: M2-07-0230-01

Information Submitted by Requestor:

None

Information Submitted by Respondent:

- Progress notes from Dr. Loyola
- Procedure note from Dr. Vera
- Office notes from Dr. Vera
- Operative Reports
- One page of Doctor's orders from Centre For Neuro Skills
- Report of x-ray of MIC tube placement
- Neurosurgical consultation by Dr. Loyola
- Request for pre-certification of lumbar discogram
- Office notes from Dr. Bernstein
- Office notes form Precision Family Medicine
- Progress notes from Dr. Zigler
- Report of Medical Evaluation
- Review of Medical History & Physical Exam by Dr. Kirkwood
- Discogram Report
- Report of post discogram CT of the lumbar spine
- Letter to carrier from Dr. Zigler
- History and Physical by Dr. Bulger
- Operative report of discogram