

ZRC MEDICAL RESOLUTIONS

November 1, 2006

AMENDED November 1, 2006

Re: MDR #: M2 07 0101 01 Injured Employee: ___
DWC #: ___ DOI: ___
IRO Cert. #: 5340 SS#: ___

TRANSMITTED VIA FAX TO:

TDI, Division of Workers' Compensation

Attention: ___

Medical Dispute Resolution

Fax: (512) 804-4868

RESPONDENT: American Home Assurance Co.

TREATING DOCTOR: Kenneth Berliner, MD

In accordance with the requirement for DWC to randomly assign cases to IROs, DWC assigned this case to ZRC Medical Resolutions for an independent review. ZRC has performed an independent review of the medical records to determine medical necessity. In performing this review, ZRC reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the president of ZRC Medical Resolutions, 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 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 Independent Review Organization. Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is a board certified in orthopedic surgery and is currently listed on the DWC Approved Doctor List.

We are simultaneously forwarding copies of this report to the payor and the TDI, Division of Workers' Compensation. This decision by ZRC Medical Resolutions, Inc. is deemed to be a DWC decision and order.

P.O. Box 855
Sulphur Springs, TX 75483
903.488.2329 * 903.642.0064 (fax)

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.

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 November 1, 2006.

Sincerely,

Handwritten initials 'JC' in a stylized, cursive font.

Jeff Cunningham, DC
President



REVIEWER'S REPORT
M2 07 0101 01

MEDICAL INFORMATION REVIEWED:

1. Dr. John Andrew, optimum medical testing, North Houston Imaging Center, Downtown Plaza Imaging
2. Kenneth Berliner, M.D.
3. Sandy Riviero, M.D.
4. Stephen Esses, M.D.
5. Aaron Loll, M.D.
6. Joe Garza, D.C.
7. Melissa Tan, M.D.
8. William Blair, M.D.

BRIEF CLINICAL HISTORY:

This 49-year-old female suffered an on-the-job injury as an employee of . The date of injury was _____. Her initial complaints of pain were unrelated to her lumbar spine. She was evaluated by a number of physicians and underwent a number of noninvasive radiographic studies as well as an EMG/nerve conduction study.

DISPUTED SERVICES:

Kenneth Berliner, M.D. has requested preauthorization for an anterior discectomy and interbody fusion as well as a posterior lumbar fusion.

DECISION:

I AGREE WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER IN THIS CASE.

RATIONALE OR BASIS FOR DECISION:

I agree with the opinions as expressed by Stephen Esses, M.D. on 09/13/04 and John Andrew, M.D. on 07/25/06. Absent symptoms and objective physical findings and imaging studies confirming neural compression justifying decompression likely to produce instability or imaging proof of instability, the patient cannot be considered a candidate for surgery. It would appear that the only indication being utilized to justify the recommendation is the finding of persistent complaint of pain in spite of multiple non-operative regimens and a series of epidural steroid injections. It is well documented that spine surgery indicated solely by the persistence of pain is unlikely to produce an acceptable result. Patients subjected to this type of spine surgery are less than 85% less likely to return to gainful employment. There is a high complication rate.

SCREENING CRITERIA/TREATMENT GUIDELINES:

Screening criteria include the ODG Guidelines, passages in Frymoyer's The Adult Spine, Second Edition, and the opinions of Stephen Esses, M.D. and John Andrew, M.D.