

Texas Department of Insurance
Division of Workers' Compensation



Treating Doctors
Lumbar Spinal Fusions
Plan-Based Audit

September 19, 2011

Section I: General Statement and Overview

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is required by Texas Labor Code §413.002 to "monitor health care providers, insurance carriers, independent review organizations, and workers' compensation claimants who receive medical services to ensure the compliance of those persons with rules adopted by the commissioner relating to health care, including medical policies and fee guidelines." The TDI-DWC will manage the medical quality review process in a manner that is fair to all system participants, open, and transparent to the extent consistent with state confidentiality laws, and provide the subject of a review the opportunity to participate throughout the review process.

Medical quality reviews may be initiated from either a complaint, a plan-based audit, or monitoring resulting from a consent order. The TDI-DWC's Medical Advisor oversees the medical quality review process conducted by the Medical Quality Review Panel (MQRP). Medical quality reviews performed by the MQRP Experts (Expert) aid the TDI-DWC both to monitor compliance with the Texas Workers' Compensation Act (Act) and Rules and to help ensure that injured employees in the workers' compensation system receive medically necessary and appropriate health care that is timely and cost-effective, and facilitates functional recovery and appropriate return-to-work outcomes.

There has been and continues to be a dramatic rise in spinal fusion surgeries in the United States. To illustrate this, the annual number of fusions increased by 77% between 1996 and 2001, while during that same period hip replacement and knee arthroplasty increased only 14% as reported by the *Agency for Healthcare Research and Quality, 2004*. Rates of lumbar spine fusions in the United States increased more than 250% over the prior 10 years, without scientific or clinical evidence to demonstrate that fusions are effective for most back conditions as reported in the journal *Spine, 2006*.

While fusions have been found to be efficacious in the treatment of back pain caused by segmental instability, there is little sound medical evidence to support its efficacy in the treatment of chronic back pain not associated with instability. The promotion of fusions as a treatment option for chronic back pain in patients without evidence of spine instability has been the dominant cause of the increased fusion rates. Given the rapid increase in fusion surgery, the concurrent rapid rise in both reoperation and complications, the high cost of fusions, and the lack of evidence for improved clinical outcomes, further investigation of workers' compensation spinal lumbar fusion cases is warranted.

Section II: Purpose for Plan-Based Audit

- Promote the delivery of quality health care in a cost-effective manner, including protection of injured employee safety;
- Assure that health care providers adhere to medically accepted standards of care for conducting lumbar spinal fusions; and
- Assess return-to-work outcomes.

Section III: Scope and Methodology for Plan-Based Audit

- Health care providers who conducted lumbar spinal fusions as the first lumbar surgical procedure with a reoperation rate of 20% or higher.
- The basis for determining the medical necessity and appropriateness of health care services is outlined in Section II of the Medical Quality Review Procedure and pursuant to Texas Labor Code section 413.002.

Section IV: Selection Criteria for Plan-Based Audit

- The statistical toolbox developed by the State Auditor's Office (may) be used to determine:
 - Subject Selection:
 - Select no more than 10 health care providers with the highest reoperation rate for lumbar spinal fusions.
 - Case Selection:
 - Select cases where the injured employee had a reoperation that was a lumbar spinal fusion performed by the same health care provider as the initial lumbar spinal fusion.
 - Select all cases if the total number of cases that had a re-operation is less than 10; or
 - Select a sample size at a 95% confidence level if the number of cases that had a re-operation is 10 or greater.
- Time frame to select data:
 - First lumbar spinal fusion conducted during 5/1/07 through 4/30/10.
- Exclusions:
 - Health care providers previously reviewed in FY11 or currently under review by the MQRP in FY 11 for this issue as outlined in Section III.
 - Health care providers currently undergoing a quality of care complaint investigation for this issue as outlined in Section III.
 - Health care providers with less than 10 lumbar spinal fusions as the first surgical procedure.
 - Health care providers with less than a 20% reoperation rate for lumbar spinal fusions.

- Health care providers with 20% or higher reoperation rate but less than 6 reoperations for lumbar spinal fusions.
- Injured employees with dates of injury prior to 1/1/06.
- Cases where a prospective or concurrent Utilization Review Agent's decision was appealed to a Contested Case Hearing.

Section V: Roles and Responsibilities

Information Management Services (IMS), Division of Workers' Compensation

- Provides a list of health care providers based on the scope, methodology, and selection criteria.
- Selects the subjects and case files for medical quality review based on selection criteria.

Health Care Quality Review, Division of Workers' Compensation

- Notifies subjects chosen for medical quality review and requests documents.
- Requests from IMS another subject or case if the nurse investigator verifies in writing that a subject or case was not selected in accordance with the approved plan-based audit criteria.
- Selects MQRP members to perform a review in accordance with Texas Labor Code section 408.0043.
- Concludes plan-based audit in six months.
- Provides Executive Summary to the Commissioner of Workers' Compensation upon conclusion of plan-based audit.

Medical Advisor, Division of Workers' Compensation

- The Medical Advisor shall develop questions for the MQRP Experts. Those questions shall be approved by all undersigned parties prior to any records being sent to the MQRP Experts.

Section VI: Conflicts

This Lumbar Spinal Fusion plan-based audit incorporates the approved Medical Quality Review Procedure. However, if a specific conflict exists between this plan-based audit and the Medical Quality Review Procedure, this plan-based audit prevails.

Section VII: Approvals

This Lumbar Spinal Fusion Plan-Based Audit is respectfully submitted by:

 9.19.11

Donald Patrick, M.D., J.D.

Date

Medical Advisor

This Lumbar Spinal Fusion Plan-Based Audit is respectfully approved by:

 9/19/11

Rod Bordelon

Date

Commissioner of Workers' Compensation