MEDICAL REVIEW OF TEXAS

[IRO #5259]

10817 W. Hwy. 71 **Austin, Texas 78735**
Phone: 512-288-3300 **FAX: 512-288-3356**

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-0672-01
Name of Patient:	
Name of URA/Payer:	Texas Mutual Insurance
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Kenneth Berliner, MD

February 20, 2006

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on the Division of Workers' Compensation Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Kenneth Berliner, MD
Division of Workers' Compensation

CLINICAL HISTORY

Records submitted for review:

1. The notification of IRO assignment which is including the non authorization opinion.
2. The Texas Department of Insurance, Division of Workman's Compensation forms which include:
    a. An MRI scan of the lumbar spine dated 9/30/05 as well as an MRI of the cervical spine on the same date.
    b. The statement for medical necessity for computerized muscle testing and range of motion requested by Dr. Berliner's office.
    c. Dr. Berliner's orthopedic surgery notes dated 9/22/05, 10/7/05 and 1/13/06.
    d. The Sady Ribeiro pain management notes from 11/3/05.

3. The carrier's statement and denial for these procedures.

This is a 52-year-old gentleman who on ___ fell off of a ladder, perhaps as much as eight feet. He fell striking his face, neck and low back. He was evaluated in the emergency room at Methodist Willowbrook Hospital where he was found to have a fractured nose, facial abrasions and ultimately was sent home. The information that has been sent to me begins on August 22nd at which point he is seen by an orthopedic surgeon, Dr. Berliner. The patient is complaining at this point of neck pain as well as numbness and tingling in his fingers bilaterally. He is also complaining of headaches originating in the occipital region. He is also complaining of pain in his low back to his tail bone region. Following this, Dr. Berliner gives the patient a course of physical therapy. He starts him on Lorcet, Feldene and Soma and recommends an MRI scan of his lumbar and cervical spine. These studies were performed on 9/30/05. This study found him to have at C4, minimal loss of the disc space height with moderately severe narrowing of the right lateral recess as well as intervertebral foramen

from posterior osteophytic formation. As a result, the patient was noted to have mild central as well as right sided, presumably, foraminal stenosis with a complete loss of the anterior and posterior dye columns. At C5 he is noted to have moderate narrowing of the disc space and mild loss of the signal in the disc with mild bilateral foraminal narrowing. At C6 he was noted to have mild narrowing of the disc space and some dehydration of the disc with moderately severe right and mildly left foraminal narrowing. His lumbar region found him to have fairly substantial focal narrowing of the L2 disc space and a bulge at L5. The patient was also noted to have sclerosis affecting the end plates at the L2 vertebral body. Following this, the patient was re-evaluated by Dr. Berliner on 10/07/05. The patient continued to have neck pain as well as pain into both of his shoulders with numbness and tingling in both of his arms. Dr. Berliner recommended cervical and lumbar epidural injections. Apparently these are the studies in dispute. The patient has also been seen by Dr. Sady Ribeiro, a pain management physician, who also has recommended steroid injections under fluoroscopy. Finally the patient was seen by Dr. Berliner in January of this year at which point he is recommending a surgical procedure on his lumbar spine followed by what he describes as a three level anterior cervical discectomy and fusion.

REQUESTED SERVICE(S)
Lumbar ESI at L2/3 and cervical ESI at C4/5, C5/6 and C6/7

DECISION
Approve lumbar ESI.

Approve one level cervical ESI.

RATIONALE/BASIS FOR DECISION
Just as Dr. Berliner has rightly pointed out, with no other treatment options open, surgery remains the only appropriate course for this patient. However, it would be inappropriate to go to this procedure without exhausting every possibility. The ***North American Spine Society*** as well as ***Occupational Medicine Practice Guidelines*** as well as the guidelines developed by the ***American Association of Neurologic Surgeons*** in association with the ***Congress of Neurologic Surgeons*** in their 2005 guidelines for spine surgery also dictate that all reasonable forms of conservative management should

be performed. And so the question becomes, are epidural spinal injections reasonable? Certainly a multitude of literature could be brought to bear on either side of this question. Large studies have shown that epidural spinal injections are only effective within the first thirty days; however, empiric use has found them to be extraordinarily effective even much later than this. Given the option here of taking the patient to the O.R. and doing an L2 fusion versus epidural steroid injections, it's obviously an easy call. Therefore, the epidural injection of the lumbar region should be approved.

With regards to the cervical region, the request for multiple levels is bizarre at best. If what we are discussing is in fact a selective nerve root block, it is extremely inappropriate as this patient is not complaining of any radicular signs or symptoms and has nothing on his physical exam consistent with that. This patient is complaining of axial neck pain. The treatment for axial neck pain from a non-surgical standpoint would be **an** epidural steroid injection, singular not plural. I would also caution Dr. Berliner, even though this is not within the purview of this review directly, that a three-level anterior cervical fusion, which is what he is proposing for this gentleman, is not at all appropriate, but a single epidural steroid injection is.

Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the provider 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 IRO.

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.

Chief Clerk of Proceedings
Division of Workers' Compensation
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with 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 22nd day of February, 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Cindy Mitchell