

COMPENSATION NEWS

MONTHLY REPORT

THE WORKERS' COMPENSATION APPEALS BOARD ISSUED AN EN BANC DECISION GOVERNING SPINAL SURGERY

This is an En Banc decision of the Workers' Compensation Appeals Board (WCAB)

This is a very significant case for workers' compensation principles.

The applicant sustained several injuries to his lower back. A written request was made for back surgery.

Utilization review denied the request. The case went to trial with the applicant contending he needed the

surgery. The Workers' Compensation Judge (WCJ) found that the applicant was in need of the surgery. The defendant filed a petition for reconsideration which resulted in this en banc decision.

The WCAB partially disapproved the appellate decision of *Brasher v. Nationwide Studio Fund*.

They indicated when a treating recommends spinal surgery the defendant must (1) undertake utilization review (UR) and if they do not do so timely provide the surgery: (2) if defendant fails to timely complete UR they must

provide the surgery: (3) if UR denies the request the defendant may object under section 4062(b); (4) the defendant must complete its UR process within 10 days of its receipt of the treating physician report; (5) if the defendant fails to meet the 10 day requirement, the defendant loses its right to a second opinion report and must authorize the surgery.

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FOOD PRODUCTS INC.**