



WALTER LINDSTROM

Walter Lindstrom and Barbara Thompson at the 2004 ASBS Conference in San Diego, CA

“M an Attorney with a Heart”

by Barbara Thompson

My medical insurance was a self-insured plan, administered through Cigna,” said Connie Wilson of Kansas City, MO. “I had been denied five times for my weight loss surgery before I called Walter Lindstrom to help me. I was denied because my surgery was considered ‘not medically necessary’ although I had a Body Mass Index of 44, acid reflux, degenerative joint disease, shortness of breath, difficulty walking, and urinary incontinence. Walter talked with me and submitted an incredibly detailed 19 page document to my insurance company.

That was denied also. We then had a hearing in which Walter represented me via phone. We had 10 minutes to present my case. Walter went first and spoke for his five minutes with complete confidence and knowledge about my case. He had prepped me on exactly what I was to say during my 5 minute presentation. I was to stress the truth about my health conditions and how the surgery would provide me with a healthier life. After my hearing, I was approved within five minutes. I would not have had this surgery without Walter’s help. He saved my life.”



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That is the story told over and over again by clients of Walter Lindstrom, attorney and principal of the Obesity Law and Advocacy Center in San Diego, California, whose practice helps patients nationwide to obtain insurance coverage for their gastric bypass surgery.

Walter graduated cum laude from the University of San Diego School of Law in 1986. “On paper, there was tremendous interest in me. I had close to 50 interviews and not a single offer. I looked really good on paper, but no one was interested in hiring a 360 pound attorney. I knew it was weight discrimination but there was nothing I could do about it.”

Walter was eventually fortunate enough to land a position with the firm Shernoff and Levine, who wrote the book on insurance bad faith law which involves fighting insurance companies who do not pay claims based upon reasonable cause. His entire career has been spent going after insurance companies.

Walter Lindstrom now heads his own firm with his wife Kelley. The Obesity Law and Advocacy Center has been leading the charge against insurance companies that would deny people the right to have weight loss surgery, in many cases, to ultimately save their lives.

“I always had a weight problem and battled it like we all did throughout my young adult life,” admits Walter. “I was very athletic, so my weight did not become a serious problem until my mid 20’s.”

Settling into his law career, Walter and Kelley decided to start a family. But Walter discovered that Kelley’s inability to conceive was the result of his infertility due to his morbid obesity, something extraordinarily painful

for Walter to deal with. So in 1991, Walter first considered weight loss surgery.

But Walter’s insurance claim for weight loss surgery was denied, and it was denied by the same insurance company that was paying tens of thousands of dollars for Walter and Kelley’s in vitro fertilization efforts. But he was not at that time ready to fight and let the denial of his weight loss surgery drop.

Walter continued to diet, fast and regain weight. Due to a career move for Kelley, they moved to Los Angeles and Walter worked on the side of the “evil empire,” determining if insurance companies should pay claims. That experience gave him invaluable insights into the workings of the industry.

Having failed at conceiving, Walter and Kelley decided to adopt. In 1993 the Lindstrom’s were presented with their daughter Marissa, one of the greatest joys in their lives. But Walter found that his morbid obesity was keeping him from what he longed for most. “I wanted to be a real father to Marissa, but I couldn’t. Because of my size, I couldn’t change a diaper; I couldn’t hold her close; I had to hold her far away because I was so large. It broke my heart.” The physical exertion of taking care of her was even too much to take. That is when he decided to again try to have weight loss surgery.

His insurance again denied him and he wrote his very first appeal letter. He won his appeal, and the rest, as they say, is history. Walter started getting calls from people in his own support group asking him to help them write letters for insurance approval.

Excited by a real need that he saw from the patients who had the same struggles with insurance that he did, Walter returned to San Diego in 1996 and “hung out a shingle.” His dream was to have a conventional insurance firm in which the Obesity Law and Advocacy Center would be a part. “I always had the vision that it would be a small niche of my insurance practice. I never envisioned it as growing to the breadth and scope of the practice now. We have been blessed by the amount of people we have been able to help,” says Walter.

The Lindstrom’s are selective in the cases that they take. “We disseminate a tremendous amount of free information both through the website and directly to people that call the office. We take on cases where we know we can make a difference. We don’t take on cases where we know just a couple of things can be changed by the patient in order to be successful. We get a lot of gifts and cards from people whom we have convinced



Right: Walter Lindstrom with his daughter in May 1994, weighing 400 pounds. Above: Walter at this year's Kentucky Derby

Advocacy Center. She discussed her situation with Kelley, and the Lindstrom's went to work. They worked with her for a year, and finally it was time for the hearing. "Walter, who represented me by phone was incredibly prepared. He not only cited one case study after another, but he knew everything about me. He really did his homework. In fact, he mentioned things about me that I had forgotten." Not only was Laurie approved, but the company policy has changed so that weight loss surgery is now a covered benefit for other employees.

"Everyone I know will know about Walter and Kelley forever. I owe them so much. Prior to my surgery, the best I could hope for was to remain 300 pounds for the rest of my life. I have a new life now because of their knowledge and expertise," says Laurie.

When asked, what people should do when they have been denied, Walter answers without a second thought? "They should immediately visit our website www.obesitylaw.com. The earlier we get the case, the more effective we are. Don't go through 2 or 3 meaningless appeals, and then come to us. Often people think of us as attorneys and you only hire attorneys at the end. We are advocates. We don't even act as attorneys in any state other than California. We act as a designated personal representative, so the earlier we have a case, the more effective we are."

"We think that every exclusion, every plan denial should be fought. The question is should this be something that you pay us to do? We won't take people's money where we can't make a difference." Fees typically range from \$450 to \$800, but a fee is never a barrier to a patient getting help.

One of the strategies is to approach weight loss surgery as treatment for a co-morbidity whether it is GERD, hypertension or Type II diabetes, rather than for weight loss. "Recently we won an appeal for someone. The coverage was denied for morbid obesity, but the grievance committee said that if we resubmitted it for severe sleep apnea, they would approve it. And they did."

When asked if insurance coverage is getting better or worse, Walter replied, "The bad guys, Blue Cross of Florida and Nebraska are getting more press with their grand announcements. But there are lots of carriers out there who are doing the right thing, trying to balance

they should not retain us, because they can handle the appeal themselves. And we don't take on cases where experience tells us that we have not been able to make a difference, whether it is a particular insurance company or a tough exclusion. Very few cases have had to go to litigation. We have resolved the vast majority favorably with very little cost to the policy holder."

"There are some bariatric surgeons who are far too aggressive with people whom they submit for surgery, people that don't meet the National Institutes of Health criteria for surgery. We will not take those on, because we don't feel the insurance company is wrong."

The most successful outcomes are those where there is a denial of a covered benefit and the disagreement is whether the treatment is medically necessary. "We have had better success with some self-insured plans, where the plan itself has the authority to change the plan. With those, we have had some very nice wins where not only the patient has won, but the plan itself has changed for those coming after. That's the nicest victory to have," says Walter.

That was the case with Laurie Fetzer of Sarasota, FL. At 5'8" and 313 pounds, her Body Mass Index was 47. Laurie had numerous co-morbidities including PCOS, which made her unable to lose weight. All of her physicians had recommended her for surgery. She was denied because her company's insurance plan refused to cover any treatment for obesity or morbid obesity. She was repeatedly denied and had one appeal left. Fortunately, she went online and found the Obesity Law and



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their responsibility to their shareholders to make a profit and their responsibility to their members to provide access to healthcare. It is especially difficult when you see this explosion with hospitals trying to fill up empty operating rooms and carriers covering very expensive complications. That's a real concern. One of the reasons that insurance companies want to get out of this business of covering bariatrics is that too many doctors and hospitals that aren't qualified to do this, are in the business."

Walter sees the trend toward the Centers of Excellence as very positive for insurance coverage. The Centers of Excellence will be bariatric practices that meet a high standard of support and patient outcome. The criteria and review will be overseen by the American Society for Bariatric Surgery. "If you're one of the new surgeons or new hospitals coming into this field it looks like the old guard trying to protect its market share. And they find the whole concept distasteful. But the data is compelling that the surgeons who do weight loss surgery best are the surgeons who do it often. They have gone through the tremendous learning curve."

"Insurance companies are starting to institute something like the Centers of Excellence already. There have been instances where doctors have submitted paperwork to insurance companies and the insurance company has said yes they will cover the surgery but only if it is done by a certain hospital because that hospital has demonstrated successful outcomes over the last 5 or 10 years. The Centers of Excellence concept will clearly help to keep bariatrics accessible. It will ultimately make insurance coverage more routine."

Yet, not every case is won. "Every loss is tough. There are people out there who are in desperate need of treatment and are being unreasonably denied access for various reasons. There are people out there who I wish we could have done more to get them approved." It clearly breaks his heart.

But the successes are wonderful. "When we call people and we give them the news that their insurance has been approved, there is a 45 second silence because the person can't talk because they are crying so hard. I shed more tears in this business conveying those types of messages, because I remember so well what it was like for me to get that 'yes.' And folks think they will never have that

'yes' until we hand it to them. That is worth all the money that we don't make in this business. That's worth everything to us."

"Since the time I started in this practice, it is my mission to put myself out of business. If there came a time in the future when our practice wasn't necessary because people had reasonable access to good providers and did not have to hire people like Kelley and me to do it for them, or with them that would be a great thing. That's what we are working so hard to do."

Aside: Walter Lindstrom had his Roux en-Y gastric bypass surgery in 1994. And it worked well for a number of years. Then the pounds started to return and Walter regained over 70 pounds. In 2003, Walter had a LAP-BAND® revision of his original RNY surgery and has since lost 60 of the 70 pounds that he regained. "I don't want people who are reading this to think that bariatric surgery creates this perfect world. You have this procedure and everything is perfect and you go off and live your life. It's not that idealic. It's hard work and sometimes, even if you work hard you don't succeed on a permanent basis."

"I regained 70 pounds on my original bypass. I had a LAP-BAND® implanted essentially on top of my gastric bypass. I am one of the few currently who have a banded bypass, and it has caused me to lose 60 of those 70 pounds. I think with technology changes like bands and laparoscopic access, and trials with gastric stimulators, until the magic pill is developed, people have to realize there are a lot of different ways of approaching this surgery. Look at it with an open mind, which is something that surgeons don't often do. Surgeons have procedures that they do and any procedure that they don't do is evil. A lot of practices have lost their focus on patients. I think that's where my unique perspective of having both band and bypass is important. The patient population is sometimes not being served by doctors who are really trying to advance separate agendas. I think there's some reason for concern there. If you are regaining weight and can't go back to your practice, go to somebody else's practice. There are resources and alternatives out there. Sometimes patients do fail the procedure. There's no doubt about that. Then there are cases like mine where the procedure failed the patient. There are technical deficiencies that occur that no longer provide you with the same tool." ■