

## **PLEASE NOTE:**

**THE PAGES THAT FOLLOW ARE A SLIGHTLY EDITED COPY OF THE LETTER I SENT MY INSURANCE COMPANY IN 2004 TO QUALIFY FOR MY CHOICE OF WEIGHT LOSS SURGERY—THE DUODENAL SWITCH. NOT ONLY DOES IT TELL THE TALE OF “THE UPS & DOWNS OF BEING ME,” IT COULD PROVE HELPFUL TO OTHERS WHO ARE SIMILARLY FIGHTING THEIR INSURANCE COMPANY TO HAVE WEIGHT LOSS SURGERY.**

**BEING PROACTIVE IS ESSENTIAL WHEN BATTLING INSURANCE COMPANIES FOR ANY PROCEDURE THAT THEY DON'T WANT TO APPROVE. THEY HOPE YOU'LL HANG YOUR HEAD AND WALK AWAY ... IT IS KEY THAT YOU FIGHT FOR WHAT YOU WANT WHEN YOU'RE ABSOLUTELY SURE YOU HAVE NO OTHER ALTERNATIVE THAN THE PROCEDURE IN QUESTION.**

**WEIGHT LOSS SURGERY IS A HUGELY PERSONAL CHOICE. IT IS SOMETHING ONE MUST SUBMIT TO AND COMMIT TO FOR IT TO BE SUCCESSFUL. DO NOT TAKE THIS OR ANYTHING YOU READ ON MY WEBSITE(S) AS A “DO THIS” ABSOLUTE. THIS IS WHAT I DID & IF YOU ARE SIMILARLY COMMITTED, I'M GLAD TO HELP YOU THROUGH THE PROCESS.**

**THROUGH THIS LETTER, MY INSURER DID APPROVE ME FOR AN RNY (GASTRIC BYPASS) BUT IT WASN'T UNTIL I GOT A LAWYER –AND- CREATED A 369-PAGE DESCRIPTIVE BINDER WITH RESEARCH AND DOCUMENTATION ABOUT THE DUODENAL SWITCH THAT THEY ULTIMATELY APPROVED IT.**

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Please read through all the information provided below. There is a point to supplying you with a case history so in depth and specific. Initially it would appear as though the request for weight loss surgery is solely about losing weight. It is not. WLS is a means to ameliorating or alleviating other medical conditions (especially non-hypothyroid, non-medication Hashimoto's Thyroiditis) that presently exist. Current medical conditions start on Page 4; Need for surgery and surgery specifics start on Page 7.

Think of it this way: If you only have just enough energy to move a particular item, and then you double the weight of that load, it cannot be moved at all. Lighten the load, right? What if there is nothing you can do to lighten the load without assistance? That is the necessity for this surgery. I can no longer lighten the load on my own and I don't have enough energy to move it alone due to additional medical conditions.

## **A Case History/Profile**

My name is Melissa. I am 48 years old and 5'6". Other than in the past seven years, I have not had any serious health problems, although I have battled with weight issues since approximately age five.



I was 7 pounds when I was born in 1955. By the time I was age 8 (picture at left), a model scout said I could be a Chubbette model if I lost ten pounds. That's about the time my mother took me to the weight doctor who had inspired Jean Nidetch to found Weight Watchers (now owned by HJ Heinz). It was the beginning of a lifelong saga to reach a "normal" weight. I never did become a Chubbette model, by the way.

My immediate and extended family was very very aggressive in trying to get me to lose weight. They were concerned and just thought I needed prodding. I was always told that I would be beautiful and my life would be terrific if only I would lose weight. It became the number one thing implanted in my mind, the uppermost thing on the minds of my family members in regards to me, and often the number one unspoken thought of people I would meet throughout my lifetime.

I would spend Summers with my grandmother, who was superintendent of a garden apartment complex in the Sheepshead Bay section of Brooklyn. She would keep me on a 1200 calorie per day diet and insist I stay in continuous motion; I would return home to my mother for the start of the school year with a 10-25 pound weight loss and by the following Summer, weight regained, the cycle would begin again.



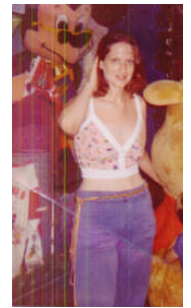
At age 12, my mother brought me to Weight Watchers and I did not have a great deal of success with the approximately 25 pounds I had to lose. But things changed somewhat in 1969: I had an ovarian cyst surgically removed as well as my appendix, because the cyst was irritating the organ. It wasn't until this time that I finally started menstruating. Later in the year, when I was 13 and "in love" for the first time, I took my life and weight in my own hands and started to really monitor and care about what I ate (see picture on left) – which worked for a while. Nonetheless, by the time I was 17, I managed to find my way to 220 pounds.

In March 1973 I met my first husband; I was 17. That's when the Atkins Diet first became popular and I followed it to the letter. I lost 70 pounds and was 150 pounds when we married on 9/15/73.



**My first marriage was not a happy one and it was the first time I remember really compulsively overeating – largely because there was no one controlling what I ate anymore, nor telling me what to eat. I was cooking for a husband who was 6’1”, 140 lbs, and had a penchant for Southern fried foods and Baskin-Robbins ice cream. I gained 135 pounds by March 1975 (see picture at left). I ended the relationship before the end of that year and again tried to take control of my life, weight and body.**

**By the Summer of 1977, I had met my second husband and had lost a total of 145 pounds by trial and error, including periods of fasting and becoming a vegetarian for a while (see picture at right).**



**By December 1981, we had my one and only child. In the picture at left, she had just turned two and I had just turned 305 pounds. Extremely unhappy with myself, I found Overeaters Anonymous, adopted the “Basic 4” weight loss plan (very similar to Weight Watchers but 3 meals a day, nothing in between), and lost 165 pounds in just over a year (see picture below left). The marriage ended shortly thereafter.**



**As part of my “service” in OA, I became a participant in a former obese study at Rockefeller University being conducted by Dr. Jules Hirsch in New York City. It was 1983. I went through a series of tests, including Resting Metabolic Rate, EKG, and abdominal liposuction solely for the purpose of taking a sample to inspect my fat cells.**

**I discovered during the experience that the biggest problem in keeping weight off is fat cells. During my most extreme compulsive overeating (1974-1975, age 18-19), my fat cells were still developing and multiplying. You never lose fat cells, no matter how much weight you lose. The fat cells do, however, change shape from round and fat when you are fat, to thin and straight (tubular) when you are thin. Once reduced in size, they still demand to be satiated. As such, it appears that no matter how frequently I am able to lose weight, the fat cells prompt the body to seek the higher level and become fat and round once again – as apparently, did my body.**

**Dr. Hirsch was trying to find a formula that would help a person who had become thin, stay thin. To the best of my knowledge, that never did happen, leading me to believe that staying thin – especially for someone with my hereditary factors and metabolism – was nearly impossible. Today, I believe it possible by virtue of extraordinary surgical intervention (weight loss surgery). But I am jumping the gun because at this point in my story, I was still only midway through my quest to get and stay thin “on my own.”**

**The weight came back more slowly this time but by February 1993 (almost exactly one decade after my last major weight loss), I managed to regain everything I had lost and gained even more. In the picture at right, I am 350 pounds and on vacation with the man who has become my third (and hopefully last) husband. It was the height of “Stop the Insanity” and I was ready to do just that. Susan Powter’s “spiel” was extremely effective and inspirational for me. It made great sense that “fat makes you fat.” I converted my lifestyle to completely or virtually fat-free and lost 210 pounds by April of 1994.**



In 1995 my father, with whom I had been estranged and had not seen since I was five years old, resurfaced. He had stomach cancer and was told to get his life in order and I was on his list. He told me he had been up and down with his weight his whole life (could lose or gain 30-100 pounds at a time with ease) but was now able to maintain his weight because surgeons had removed the cancerous portion of his stomach, thus lessening its size.



This was the first time I came face-to-face with the source of my own tendency to gain and lose drastic amounts of weight. I knew I had my father's fat genes; my mother had mentioned it more than once. Although several relatives on my mother's side of the family had weight issues up to about the 75-pound range, none have had the dramatic fluctuations I have experienced.

My father stuck around long enough to walk me down the aisle in October 1996 (honeymoon picture at left) and disappeared from my life within months – about as suddenly as he had re-appeared. Nonetheless, to do this day, he remains in remission from cancer.

## **Other Medical Conditions Present Themselves**

In the fall of 1997, I was still “only” about 160 pounds but I was experiencing what appeared to be symptoms of early menopause. My gynecologist (Dr. Kazunari Kuno) ran a blood test and discovered that I was hyperthyroid. Up until then I was personally unfamiliar with the impact of the thyroid on one's body/system.

I started seeing an endocrinologist (Dr Seth Friedman) who wanted to treat the thyroid with radiation drugs, cease its functioning, and place me on Synthroid for the rest of my life. I was not comfortable with taking radiation medication, so he instead prescribed Tapazole to slow down the thyroid and a beta-blocker (Inderal) to reduce the palpitations I had been experiencing. No one explained the water retaining power of beta-blockers, so when I returned to his office within a two-week period of time, I had gained ten pounds and was very concerned because of my weight history. That's a big gain in a short period of time. The doctor was insensitive to the issue, said I may want to talk to a therapist, and dismissed me.

By late 1998, my thyroid problems seemed less extreme but I had once again reached the 200-pound mark. By the start of the new century, I was 250 pounds, again morbidly obese.

As had always been my pattern, I tried many different diets in between the major weight gains and losses. I would lose (and then regain) 10-30 pounds at a time, more often the latter than the former. I tried everything from the Scarsdale Diet, to the ice cream diet, to the cabbage diet, to fasting (made it to ten days before eating again), to no sweets, to no meat, to no fat, to no carbs, to only soup, to only salad. I was always in there plugging away, trying to take/keep weight off. But this time was different, there was only gaining and anything I did to remove weight failed. I figured I had become hypothyroid, which I knew was possible.

By the time I sought medical help again, I was very weak and fatigued. It was as if I had suddenly turned 85. Having been even heavier in the past, I knew the difference

between being out of shape and unwell. My ability to function adequately was declining rapidly. I could only work and “collapse.” All socializing, errands and house chores became too strenuous, stressful, and exhausting and as such, ended. This is when I started becoming dependent upon my husband for everything other than my job.

On March 20, 2003, I finally went to see my current endocrinologist, Dr. Dennis Gage. He performed a series of tests -- blood, urine, EKG, BMI, etc. I was 290 pounds, 130/80 blood pressure, cholesterol of 229. When the full range of results had returned, he told me that I was not quite hypothyroid but I did have Hashimoto's Thyroiditis. He assured me that I was indeed ill and my maladies were not my imagination. The hyperthyroid had, over time, eaten through the protein in my body and taken away over 50% of my muscle mass.

From what the doctor could postulate, the onset of the most debilitating effects of the Hashi's appeared to have been somewhat triggered by the events I experienced on 9/11/01. That day I pushed my already-overtaxed body and emotions further beyond capacity to cover the story for UPN 9 News; I was the only person in the newsroom to get close to the World Trade Center as the dramatic and horrific events were still unfolding. I worked nearly four days straight – in NYC for two days and back in New Jersey for the next two (the station is based in Secaucus). Over the course of those days, I was unable to see the one person I knew I could rely upon (my husband) and my mother (then in the late stages of Alzheimer's) – for whom we were the sole caretakers - - as I worked past the shock and fear to fulfill the responsibilities of my job.

There are no medications Dr Gage could prescribe because there is no medication for treating Hashi's on its own, since my thyroid is still functioning. (Hashi's often works in tandem with a thyroid that no longer functions – hypothyroid – but this is not the case with me.) I started a high protein diet and vitamin regimen, as advised and disseminated by Dr Gage. He said we would continue to follow up to see if the thyroid had ceased functioning, at which time he would be able to prescribe medication.

In spite of following Dr Gage's protocol, I have been unable to lose weight for over a year now. My fatigue increases daily, as do the rest of the Hashi's symptoms (lethargy, mental fogginess, bloating, edema, weight gain, rash, depression, “fierce” menstruation, constantly cold). Vitamins, protein drinks, and supplements have not lessened the symptoms. Unable to function satisfactorily at work, I left my full-time job as a broadcast journalist on 6/13/03. I stopped driving the following month.

Although one may be tempted to assume that my problems are solely related to my weight, there are significant differences in my past history of being overweight and now, such as:

- In the past when I was simply overweight/morbidly obese, I would feel tired or winded upon too much physical exertion but now I barely have the physical strength to get out of bed, regardless of my will and desire to do so.

- When I was simply overweight/morbidly obese, I could always lift and use physical strength to maneuver or clean or perform home repair; now a task that once took half an hour will take at least three -- if I am able to do it at all. I could always open a jar with no effort, now it takes several tries before I have the strength to open one.

- When I was overweight/morbidly obese, my mind had always been sharp and I could get through a workday at a very stressful job but now I suffer several periods of foggy and mental exhaustion throughout the day – regardless of how much I “pamper” myself, take it slow, or stimulate myself to stay sharp. Nothing works.

- Anything eliciting the slightest bit of emotion now moves me to tears but even when I laugh with fervor, I am exhausted/drained. Emotional or physical stress of any kind can virtually immobilize me for hours afterward.

- Upon waking, it takes me up to fifteen minutes to fully focus my eyes as well as my mind; my legs swell upon physical activity of any kind (even a short trip in the car to visit my mother), etc.; I must constantly keep them elevated.

All my attempts at making myself healthy again -- diet, vitamins, whatever exercise I can do – is not helping. I quit an intermittent smoking habit (honest-to-God one pack per week maximum). I now eat 3x less each day than I did when I had lost 210 pounds ten years ago.



When I saw Dr. Gage on 10/14/03, I had gained eighteen pounds when compared to our first visit a little over six months before. To date, I am a virtual shut-in and am practically bedridden (picture at left).

Blood tests reveal that my thyroid level is still within normal range; still Hashi's but still non-hypothyroid and untreatable.

This is not a comfortable or optimal situation for me in any way, shape, or form. I do not like being dependent on anyone, nor am I enjoying my current hermit-like status. I simply cannot break free of this condition. It floors me and brings me further into a depressed state of mind to realize that I can no longer fix myself. This is something I've always done. Prior to marrying my husband I didn't have medical coverage for ten years and managed to stay a healthy woman – even when I was obese/morbidly obese.

Now I feel as though I'm running out of time. If it were just a matter of getting older, I would surrender to “aging.” But I know this is not normal; I know I am not healthy. Dr Gage's clinical data confirms this. There is only one reasonable solution to permanently eliminate most of the debilitating effects of a disease I have from which there is no cure: The Duodenal Switch.

There are documented successes to this surgery in the tens of thousands. People who are clinically considered more ill than I (due to numerous co-morbidities) have experienced remarkable results as a result of this surgery. But I ask you: *Isn't being almost bedridden sick enough?* I am so borderline in my “almost co-morbidities” (last BP was 120/90, cholesterol 229) that I am that much closer to being even sicker than I already am. The stress I suffer daily from my inability to function in a reasonable capacity and the battles fought – and lost – to secure insurance coverage for the surgery are further deteriorating my health. Is it appropriate to put a measurement on how much one is to suffer to qualify for a life-saving surgery?

Dr Gage and I discussed the practicality of – and necessity for -- weight loss surgery, given my symptoms and current state of health. He believed me to be a good candidate for the surgery and referred me to Dr. Roslin.

## Highlighting the Need for Surgery

Weight loss surgery appears to be the best recourse to hopefully reset my thyroid, to rectify or greatly improve the Hashi's, to prevent the onset of any additional autoimmune disease (which is the most common occurrence with untreatable Hashi's), to permanently address my weight issues, and to prevent the possibilities of any co-morbidities of obesity (I have already recorded the highest blood pressure and cholesterol levels in my lifetime, as well as Urinary Stress Incontinence). At my PCP's office (Dr. Richard Istrico) on 2/3/04, I was 314 pounds and had a blood pressure of 120/90.

The Americans with Disability Act describes a disability as a physical or mental condition which impairs major life functions: Caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, sitting, standing, lifting, reaching, working. Although I shudder at the notion, by these standards, I am indeed disabled. *Would you deny any other patient a surgery that can effectively remove or relieve their disability?* My research shows that the average cost of open heart surgery in the U.S. (the procedure in and of itself) is \$49,000 – and that doesn't even take into consideration the plethora of expensive drugs needed to keep the successful post-op heart patient alive. Weight loss surgery is just about half the cost of open heart surgery and no drugs are required long-term as post-op protocol.

Also worthy of note is the likelihood that I may eventually need bladder surgery to address my problem with incontinence and/or antidepressant drugs for my depression, as well as extensive psychological counseling to deal with my current inability to function appropriately for a woman my age. It seems much more cost-effective to have the DS, which can effectively eliminate the need for treating my symptoms separately (with an assortment of medications and doctors), as well as to prevent conditions likely to occur if my current health status further deteriorates, which is very possible.

Approving this surgery will essentially save my life; my quality of life has become nonexistent and I'm simply too young and otherwise vital to be so damned pathetic. There was a time I detested people who exhibited the "weaknesses" that I now possess; I can't just "snap out of it" and it's very difficult to explain or understand unless you too have suffered through it.

My niece is graduating from George Washington University on May 15-16. She is as close to me as my own daughter. She is the first child in our immediate family to be completely on target with her personal life goals. I would give anything in the world to be able to be there for her graduation but I cannot. Why? Because I lack the stamina for a five-hour drive to DC, I lack the stamina to attend her two graduations (one from her individual school and one for the entire college) and to attend the correlating social activities. It is better not to attend lest I take away from these precious moments to have everyone attending to my various dysfunctions due to poor health. Again, it's not about being fat; it's about being unwell; it's about having a condition for which there is no cure but a definite solution. This is no joke, no exaggeration, and certainly no picnic.

**One has to realize that having this surgery is not an “easy way out.” I learned a long time ago that there is no easy way out – of anything – especially for me. However, I see it as being given the lifeline that I can no longer create for myself. I don’t care that I have to eat baby food for a month or that there will be considerable post-surgical discomfort -- probably to a higher degree than for most others -- considering my present medical condition. My goal is to be healthy. If I could do it without surgery, I would do it. I’ve done it before and I’m ready and willing to do it again. Unfortunately, that ship sailed at some point and nobody told me to come aboard.**

## **Rationale for the Duodenal Switch**

**The Duodenal Switch surgery is the optimal procedure due to my strong family history of stomach cancer; it is imperative that my entire stomach be accessible to endoscopy. With the RNY surgery, 90% of my stomach would be stapled off from my esophagus and inaccessible to endoscopy, making examination of my stomach impossible without major surgery. Also, due to my need on occasion to take NSAIDs to alleviate pain/severe headache, the RNY is also inappropriate, as the artificial junction the procedure creates between the stomach and the intestine is particularly subject to ulcers and strictures and microscopic bleeds, and taking of NSAIDs is strictly prohibited.**

**Since the outlet valve (pylorus) between the stomach and small intestine is left unchanged, the DS will not produce the "dumping" syndrome as seen in gastric bypass operations. The risk of marginal ulcers, stoma closures and blockages are also eliminated. By keeping the pylorus intact, a more-normal absorption of many nutrients (including protein, calcium, iron, and Vitamin B12 – all essential to improving my condition) is seen than after other gastric bypass procedures.**

**Dumping is an even less appreciable byproduct of gastric bypass considering my present compromised health. Dumping occurs most frequently early-on post-op as the body is adjusting and letting the patient know what is acceptable food/liquid intake and what isn't. Due to my weakness and fatigue pre-op (due to the Hashi's), 3-hour episodes of dumping (practically a standard length of time according to most post-ops and surgeons) will further inhibit my ability to sufficiently recover and regain strength early-out after surgery.**

**Also, by removing the gallbladder as part of the procedure, the DS eliminates one of the principal reasons for subsequent post-op RNY surgeries (i.e., gallstones/cholecystectomy).**

**Additionally, due to my BMI of 50+, I am not only obese, not only morbidly obese, but in fact, I'm super-morbidly obese; people this big very often do not have sufficient weight loss with the RNY to ever get out of the morbidly obese range (a BMI of 40-49); it is only the DS procedure that has a reliable weight loss of at least 70-80%, and most commonly 90-100%, of excess weight loss.**

**The RNY has a much higher rate of long-term weight regain (on the order of 30% gain back 50% or more of the weight lost). In fact, Dr. Roslin specifically said in the worst-case scenario, he could keep me at 230 pounds for the rest of my life with the RNY. At 230 pounds, I would still be just about 100 pounds overweight (morbidly obese), according to standard height-weight charts.**

DS patients rarely gain back more than a few pounds five years out. (The most I have heard to date is 20 pounds – and that’s only in 2 out of over 100 cases.) However, with the RNY, I have heard at least 20 cases of people regaining most or all of their weight (as much as 150 pound regain). As such, the DS is the best option available to alleviate my weight issues permanently and take the place of the one medical/surgical intervention that does not exist at this time but could eliminate obesity -- removing fat cells permanently.

Still, I urge you to maintain the focus here. Although it is a weight loss surgery and I certainly do hope to achieve and maintain significant weight loss, this is about getting healthy. The only hope I have at this point to regain stamina and optimal health is to lose weight – which I cannot do by diet and exercise alone because of my autoimmune disease. Weight loss surgery is necessary. The Duodenal Switch is clearly the most enlightened and efficient/effective procedure available today.

The Duodenal Switch, taken off the American Society for Bariatric Surgery (ASBS) investigational surgery list in June of 2003 and now considered a standard procedure, has had the highest incidence of sustained weight loss, the least amount of post-surgical discomforts, and simply requires a lifetime adherence to a strict regimen of vitamin supplements. This is not a problem for me, and makes it the most preferable and practical versus other weight loss surgery alternatives.

## **Conclusion**

I’m sure you will understand that if I am denied this surgery, I will have no other recourse but to seek help from both legal counsel and the media. Many of my colleagues in television news are surprised that I would be denied approval for surgery (as I was denied on first appeal by Cigna PPO a week before the insurance changeover to Empire BC/BS on 4/1/04), considering my current health status. They watched my health deteriorate to the point of being unable to work any longer. I have been keeping them apprised of my struggle with approval and some have indicated their interest in pursuing it as a news story. I have asked them to hold off on this until I know my status for surgery approval through Empire BC/BS.

I am aware of the statistics and frequency of insurance denial for weight loss surgery. I am aware of our company’s exclusion for weight loss surgery. However, this is indeed a medical necessity. Again, I ask: *How fierce can the parameters be that the fact I am nearly bedridden does not constitute medical necessity?*

I would give anything not to be in this unimaginable position of begging to be cut open and have my insides screwed around with in order to be back on the road to optimal health. I frankly think it’s ludicrous that I would even have to beg. But that is what I am doing. I have a family that has had to take care of me more than I take care of them for over three years now. My mother is now in the terminal phase of Alzheimer’s and I am not even well enough to visit her regularly.

Every day I get more ill, more incapacitated. My career has been put on hold. I have a need to be out in the world and be productive and I haven’t been out of the house once in over two months! This is a frightening predicament for a woman who has always taken care of everyone else. I cannot – and will not -- go through years of being an invalid – not when there is such a hopeful and life-saving recourse available. Again,

**there is not one other patient – other than an obese one – who would be denied surgery as a lifeline to resume a normal level of functioning.**

**I am prepared to offer dozens of affidavits from others who have had the Duodenal Switch and have had life-saving and life-changing results. I am also prepared to take this matter to court because I physically do not have the time left nor the stamina to go through a series of denials and appeals to get the result to which I am legally and morally entitled.**

**I know that insurance companies – especially Blue Cross/Blue Shield of Florida – say that it takes four years of premiums to break even on approving this surgery (paraphrasing, of course). Well, you are at the beginning of your contract with the company with which you are in contract. They stayed with their previous insurance, Cigna PPO, for over seven years. By approving me for the Duodenal Switch right out of the gate, you will undoubtedly make your money back for okaying the surgery now, saving all of us—you and me—a lot of additional stress and aggravation.**