

# **MATUTECH, INC.**

**PO Box 310069  
New Braunfels, TX 78131  
Phone: 800-929-9078  
Fax: 800-570-9544**

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## Notice of Independent Review Decision

**DATE OF REVIEW: NOVEMBER 9, 2007**

**IRO CASE #:**

**DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE**

Lumbar discogram at the L2/3, L3/4, L5/S1 (CPT code 72295)

**A DESCRIPTION OF THE QUALIFICATIONS FOR EACH PHYSICIAN OR OTHER HEALTH CARE PROVIDER WHO REVIEWED THE DECISION**

**REVIEW OUTCOME**

Upon independent review the reviewer finds that the previous adverse determination/adverse determinations should be:

Overturned (Disagree)

Medical documentation supports the medical necessity of Lumbar discogram at the L2/3, L3/4, L5/S1 (CPT code 72295).

**INFORMATION PROVIDED TO THE IRO FOR REVIEW**

Solutions, Inc.

- Office notes (11/08/06 – 08/24/07)
- Radiodiagnostic study (03/22/06)
- Utilization reviews (09/27/07 – 10/08/07)
- DDE exam and RME (03/22/06 - 05/10/07)  
M.D.
- Office notes (11/08/06 – 08/24/07)
- Electrodiagnostic study (04/20/07)

ODG guidelines, ACOEM and AHCPH have been utilized in the denials.

**PATIENT CLINICAL HISTORY [SUMMARY]:**

This is a female who was injured when she fell on her buttocks while helping a patient to the bathroom. She started with low back pain and developed right leg pain after six hours.

In a required medical evaluation (RME) performed in March 2006, M.D., noted a history of low back injury that resulted in lumbar surgery x2. X-rays obtained in the office revealed L4-L5 fusion with instrumentation and a posterior L3-L4 disc space narrowing and a 2-3 mm retrolisthesis. Dr. rendered the following opinions: (1) the treatment was related to the accident. (2) The prior injury was responsible for initial problems with the lumbar spine. (3) There was causal relationship of the symptoms with the injury. (4) Facet injections were not reasonable. (5) She was overweight and this and the predisposition to a spinal injury after two lumbar spine operative procedures had significantly contributed to the development of her symptoms. (6) Pain medications and muscle relaxants would be reasonable and necessary. (7) There was no indication for surgery or second opinion. (8) The current signs and symptoms and diagnoses were partially related to the old and partially to the new injury.

M.D., a neurosurgeon, noted symptoms of back pain, right leg pain, burning in the feet, slight bowel/bladder dysfunction, and depression. The patient had an L4-L5 laminectomy in December 2000 and L4-L5 fusion in July **2001**. A lumbar myelogram/CT in October 2005 had revealed a grade I L4-L5 spondylolisthesis, L3-L4 disc bulge with facet and ligamentous hypertrophy causing posterior stenosis, and right L3 pars fracture. Dr. assessed right lumbar radiculopathy, lumbar facet syndrome, and chronic pain syndrome and scheduled her for lumbar facet rhizotomies as she had responded well to facet blocks.

Psy.D., performed a chronic pain evaluation and noted symptoms of depression and anxiety. The patient had undergone lumbar facet rhizotomies in November 2006 with 70% relief. He felt that the patient was not a candidate for chronic pain program or work hardening program (WHP) due to her household problems.

Electromyography/nerve conduction velocity (EMG/NCV) studies revealed chronic changes in the left L5 distribution.

D.O., a designated doctor, assessed clinical maximum medical improvement (MMI) as of May 10, 2007, and assigned 5% WPI rating.

In May 2007, Dr. noted the patient had completed a work conditioning program (WCP). She had responded somewhat to facet injections but her pain returned and was intolerable. Due to the unrelenting pain, he recommended a lumbar discogram, weight reduction, and a psychological evaluation prior to the discogram. Later, Dr. noted the patient had undergone individual psychotherapy. The psychologist had stated that she was losing weight and was likely an excellent candidate for any proposed surgical procedure. Based on this, Dr. recommended a discogram from L2-L3 through L5-S1 levels.

On June 7, 2007, Dr. opined the patient was psychologically not a good spinal surgery candidate due to her depressive condition and her inability to lose weight. He recommended individual psychotherapy, referral to a psychiatrist, and weight loss.

The request for lumbar discogram was denied with the rationale: *As per the psychological evaluation of Dr. dated June 7, 2007, the patient had increased anxiety, tension, depression, dejection, illness apprehension, functional deficits, pain sensitivity, future pessimism, problematic compliance, and adjustment difficulty scales. Dr. also noted significantly deeper levels of depression than was usual for her coupled with elevated anxiety symptoms. He did not think that the patient was psychologically a good spinal surgery candidate due to her depressive condition and she might be at increased risk for having a negative reaction to medical procedures.*

Dr. appealed for reconsideration of discogram stating that the reviewer was not aware that following the evaluation of Dr. the patient had undergone invasive psychotherapy and had responded well to it.

In a peer review, M.D., rendered the following opinions: (1) the patient had a significant pre-existing condition in her back and her level of function and pain prior to the injury was unclear. (2) The exact nature of the injury was not clear. The injury was not more than a soft tissue injury and should have resolved long ago. (3) The current treatment was more related to the underlying condition than the injury. (4) There was no need for surgery as related to the injury. (5) The ODG guidelines recommend against discograms, which would be the only predicate test for surgery in this case, and thus ODG guidelines also would deny surgery for this patient who has a significant psychiatric history and chronic pain with postlaminectomy syndrome.

An appeal for reconsideration of discogram was denied based on ODG guidelines, ACOEM and AHCPR.

**ANALYSIS AND EXPLANATION OF THE DECISION INCLUDE CLINICAL BASIS, FINDINGS AND CONCLUSIONS USED TO SUPPORT THE DECISION.**

**MEDICAL MATERIAL REVIEWED:**

1. PATIENT CLINICAL SUMMARY
2. 3/24/06 REPORT BY M.D. AND ALSO A REPORT BY THE SAME PERSON ON 5/17/06
3. LUMBAR SPINE X-RAY REPORT 3/22/06 BY M.D.
4. 11/8/06 HISTORY AND PHYSICAL EVALUATION BY M.D. AND ADDITIONAL NOTES BY THE SAME DOCTOR ON 11/27/06, 4/6/07, 5/18/07, 8/24/07, 9/27/07
5. INSTITUTE NOTES 6/7/07 AND 12/12/06
6. ELECTRODIAGNOSTIC TESTING REPORTS OF 4/20/07
7. DESIGNATED MEDICAL EVALUATION BY D.O. ON 5/25/07
8. SOCIETY PAPER ON LUMBAR DISCOGRAPHY LAST PUBLISHED IN SEPTEMBER 2001
9. MEDICAL REVIEW ON 10/4/07 BY M.D.
10. PSYCHOLOGICAL EVALUATION REPORT 6/7/07 BY LICENSED PSYCHOLOGIST

## 11. NOTES REGARDING OCTOBER 2005 CT MYELOGRAM BUT NO REPORT

THIS CASE INVOLVES A FEMALE WHO FELL TO HER BUTTOCKS WHILE HELPING A PATIENT TO THE BATHROOM IN HER WORK AS A . SHE DEVELOPED LOW BACK PAIN WHICH WAS JOINED IN ABOUT SIX HOURS BY PAIN INTO THE RIGHT LOWER EXTREMITY. THERE IS A HISTORY OF LUMBAR SPINE SURGERY ON TWO OCCASIONS IN 2002 AFTER AN INJURY. THE SECOND SURGERY IN 2002 CONSISTED OF L4-5 INTERBODY FUSION WITH PEDICLE SCREWS AS PART OF THE INSTRUMENTATION. ON EXAMINATION THERE IS NO DISTINCT NEUROLOGIC DEFICIT AND ON EMG THE ONLY FINDING IS WHAT IS CONSIDERED A CHRONIC L5 PROBLEM ON THE RIGHT. PLAIN X-RAYS OF THE LUMBAR SPINE ON 3/22/06 SHOWED AN L3-4 RETROLISTHESIS AND A PROBABLE PARS FRACTURE AT L3 ON THE RIGHT. MEDICATIONS INCLUDE HYDROCODONE 10/500. IN ADDITION SHE HAS HAD INJECTIONS, FACET RHIZOTOMY WITHOUT SIGNIFICANT BENEFIT. SHE CONTINUES WITH PAIN IN HER LOW BACK EXTENDING INTO BOTH LOWER EXTREMITIES TO SOME EXTENT AND HAS BEEN UNABLE TO WORK SINCE THE INJURY.

IT WOULD BE VERY EASY TO AGREE WITH THE DENIAL AND WRITE MULTIPLE REASONS FOR THAT AGREEMENT AND IN ADDITION IT WOULD BE JUST AS EASY TO DISAGREE WITH THE DENIAL AND GIVE SEVERAL REASONS SUPPORTING THAT DECISION. THE DISAGREEMENT WITH THE DENIAL IS SOMEWHAT MORE PROMINENT BASED TO A GREAT EXTENT ON THE PROLONGED COURSE THE PATIENT HAS HAD WITH TWO YEARS OF DIFFICULTY UNRESOLVED BY VARIOUS CONSERVATIVE MEASURES INCLUDING MULTIPLE INJECTIONS. THERE IS EVIDENCE OF DIFFICULTY ON HER PLAIN X-RAYS AND THE CT MYELOGRAM SUGGESTING L3-4 AS A PROBABLE SOURCE OF HER DIFFICULTY. IF THIS IS THE CASE, AN ADDITIONAL LEVEL OF FUSION AT L3-4 MAY WELL BE BENEFICIAL. DISCOGRAPHY WHILE HAVING ADDITIONAL DIFFICULTY IN INTERPRETATION IN PATIENTS WITH PREVIOUS SPINE SURGERY, MAY IN MS. CAMPBELL'S CASE BE HELPFUL ESPECIALLY IF THE L3-4 LEVEL WERE NEGATIVE. MULTIPLE INJECTIONS WITH CONTROL LEVELS INCLUDED WOULD BE NECESSARY AT THE TIME OF DISCOGRAPHIC EVALUATION.

### **A DESCRIPTION AND THE SOURCE OF THE SCREENING CRITERIA OR OTHER CLINICAL BASIS USED TO MAKE THE DECISION:**

I DID NOT USE THE ODG GUIDELINES SINCE I DO NOT BELIEVE THAT I NEED GUIDES IN DETERMINING THESE MATTERS.

**MEDICAL JUDGEMENT, CLINICAL EXPERIENCE AND EXPERTISE IN ACCORDANCE WITH ACCEPTED MEDICAL STANDARDS**

“Guidelines developed by the reviewer over 38 years of evaluating spinal surgical problems.”