

MATUTECH, INC.

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

Notice of Independent Review Decision - Amended

AMENDED: December 15, 2008

DATE OF REVIEW: December 10, 2008

IRO CASE #:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

Lumbar laminectomy implantation of Neurostimulator electrode array (63655), epidural, insertion or replacement of Spiral neurostimulator pulse generator or receiver, direct or inductive coupling, complex spinal cord or peripheral neurostimulator pulse generator/transmitter with intra-operative or subsequent programming, peripheral nerves

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

The physician providing this review is a spinal neurosurgeon. The reviewer is national board certified in neurological surgery. The reviewer is a member of the American Association of Neurological Surgeons, The Congress of Neurological Surgeons, The Texas Medical Association, and The American Medical Association. The reviewer has been in active practice for 38 years.

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 the health care services in dispute.

INFORMATION PROVIDED TO THE IRO FOR REVIEW

Texas Department of Insurance

- Office notes (01/03/08 - 10/14/08)
- Procedure Notes (08/29/05 - 09/10/08)
- Utilization reviews (10/24/08, 11/11/08)

ODG Guidelines are used for denials.

PATIENT CLINICAL HISTORY [SUMMARY]:

The patient is a xx-year-old male who was picking up a sheet of 10 gauge steel to waist level and felt a pop in his low back.

On August 29, 2005, M.D., diagnosed L5 vertebral fracture, lumbosacral nerve root injury, and disc herniation. He performed percutaneous biopsy L5 and vertebroplasty and fluoroscopy.

On November 20, 2006, Dr. performed left posterior lumbar decompression and fusion at L4-L5 and L5-S1 with pedicle screw fixation, and isobar dynamic bar discectomy at L4-L5 and L5-S1. The postoperative diagnosis was disc herniation at L4-L5 and L5-S1 with radiculopathy.

On August 30, 2007, Dr. noted the patient complained of continued pain. Transcutaneous electrical nerve stimulation (TENS) unit and medications were not helping much. Dr. assessed lumbosacral strain and herniated disc and refilled Lortab.

On January 3, 2008, , M.D., a pain management physician, noted increased tone over the lumbar paravertebral muscles with tenderness and muscle spasms as well as trigger points and tenderness over the sacroiliac (SI) notches. Following tests were positive: Kemp's maneuver for facet pain, Patrick's-Fabere and iliac compression bilaterally, straight leg raise (SLR), and Lasegue's tests on the left. Strength was diminished in bilateral lower extremities. Sensation was diminished over the left L5-S1 distribution. Dr. assessed lumbar disc disease, lumbar radiculopathy/postlaminectomy syndrome, facet joint dysfunction, and bilateral SI joint dysfunction. In April, he performed caudal epidural steroid injection (ESI) at L4-L5 on the right with 60-70% reduction of symptoms. In August, the pain returned to almost the same intensity as it was prior to the ESI. Dr. prescribed Metanx and continued other medications.

On September 10, 2008, Dr. performed trial implantation of Medtronic epidural electrode stimulation array, implantation of Medtronic peripheral nerve stimulator. On September 16, 2008, Dr. noted adequate response to DCS and recommended permanent implantation. On October 14, 2008, he noted persistent low back pain radiating to left leg with numbness in the legs. He administered injection of Phenergan and Nubain.

On October 24, 2008, , M.D., denied the requested lumbar laminectomy implantation of neurostimulator with the following rationale: *"The progress notes do not document the utility or efficacy of this device. There is no additional pain data presented to objectify the success of the trial. There is no psychological evaluation reported upon to assess the suitability of the claimant. There is no documentation of a decrease in medication or increase in functionality secondary to the trial. Based on the clinical information submitted for this review and using the evidence-based, peer reviewed guidelines referenced above, this request is for Lumbar Laminectomy Implantation Pulse Generator or Receiver, Direct or Inductive coupling, Complex Spinal cord, or Peripheral Neurostimulator Pulse Generator/Transmitter w/Intraoperative or Subsequent Programming, Peripheral Nerve 63655, 63685, 95972, 64555 LOS x 4 days is not recommended."*

On November 11, 2008, , M.D., denied the appeal for requested services. He noted following the fusion surgery, the patient was treated with physical therapy (PT) and multiple interventional procedures. In July 2007, the patient was referred to a psychiatrist for consideration of spinal cord stimulator (SCS). At that

time, he was reported to have major depressive disorders, adjustment disorder with chronic mood. His GAF was reported to be 50. Despite this Ph.D., recommended that the patient was a candidate for SCS. Dr. denied the services with the following rationale: *“The request for permanent implantation of a dorsal column stimulator and associated DME is not supported by the clinical information. The available medical record indicates that the patient is status post what appears to be a two-level fusion. The patient is reported to have intractable low back pain and has evidence of radiculopathy in the lower extremities. Most recently on September 10, 2008, the patient underwent a trial of SCS. Post procedurally on September 16, 2008, the patient was seen by Dr. who reports an adequate response. This does not quantify the patient’s response adequately and therefore medical necessity for dorsal column stimulator cannot be established. Current evidence -based guidelines require that the patient receive 70 to 90% relief in the extremities with utilization during a trial in order to establish medical necessity for permanent implantation. Based on the clinical information submitted for this review and using the evidence-based, peer-reviewed guidelines referenced above, this request for appeal lumbar laminectomy, implantation of a neural muscular electrode array, epidural, insertion of a spinal neurostimulator pulse generator or receiver, direct or indirect coupling, complex spinal cord, or peripheral neurostimulator pulse generator/transmitter with intraoperative or subsequent programming, peripheral nerve codes: 63655, 63685, 95972, 64555 with a four day length of stay is not medically necessary.”*

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

Medical material reviewed on this case:

1. Patient clinical history and summary.
2. An 8-24-2005 op report regarding lumbar spine biopsy and vertebroplasty at L5.
3. An 11-20-2006 op report regarding lumbar laminectomy and fusion by , MD.
4. Follow-up notes by MD.
5. Notes by , MD, a Pain Management specialist.
6. A 9-10-2008 op report by , MD, regarding trial lead placement.
7. Utilization Reviews of 10-24-2008 and 11-11-2008.
8. notes of 9-16-2008 and 9-25-2008.

This case involves a now xx-year-old male, who on xx/xx/xx was lifting some 10-gauge steel when he developed pain in his back which extended into both lower extremities primarily on the left side. This pain persisted despite physical therapy and a vertebroplasty at L5. The persistence of pain led to an L4-5 and L5-S1 laminectomy and interbody fusion on 11-20-2006. Despite this rather extensive surgical procedure, pain in his low back with some extension into both lower extremities, primarily on the left side, has persisted. Pain management intervention has been utilized, without help. Spinal cord stimulation and peripheral nerve subcutaneous stimulation has been suggested as a means of diminishing the pain. Trial stimulation was apparently approved and on 9-10-2008 this was instituted. The attending surgeon has indicated that the trial has led to enough pain relief that permanent placement is indicated.

I disagree with the denial for the proposed spinal cord and subcutaneous peripheral nerve stimulation. The latter procedure is frequently helpful with low back pain and the spinal cord stimulation has been helpful in regard to the patient's lower extremity discomfort. My disagreement with the denial for the proposed procedure is based on the trial stimulation result noted by the patient's attending surgeon.

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

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

- ODG- OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES**