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Notice of Independent Review Decision

DATE OF REVIEW: MARCH 10, 2008

IRO CASE #:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

Cybertech thoracolumbosacral orthosis (TLSO): L0637

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

The physician providing this review is an orthopedic surgeon. The reviewer is national board certified in orthopedic surgery. The reviewer is a member of the American Academy of Orthopedic Surgeons. The reviewer has been in active practice for 20 years.

REVIEW OUTCOME

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

Upheld (Agree)

Medical documentation does not support the medical necessity of the Cybertech thoracolumbosacral orthosis (TLSO).

INFORMATION PROVIDED TO THE IRO FOR REVIEW

Department of Insurance

- Utilization reviews (01/31/08 – 02/08/08)
- Office notes (05/03/07 - 01/28/08)
- Diagnostics (04/27/07 - 10/11/07)
- Utilization reviews (01/31/08 – 02/18/08)

M.D.

- Office notes (05/03/07 - 01/23/08)
- Diagnostics (04/27/07 - 10/11/07)

Clinic

- Office notes (04/02/07 – 11/07/07)
- Therapy notes (04/10/07 – 05/16/07)
- Diagnostics (04/27/07 - 10/11/07)
- Designated doctor exams and peer reviews (06/20/07 – 07/23/07)

ODG guidelines have been utilized for review.

PATIENT CLINICAL HISTORY [SUMMARY]:

The patient is a xx-year-old female who strained her lower back on xx/xx/xx, while bending and pushing an overloaded cart.

The patient initially presented to an emergency room (ER). Tenderness and spasms was noted in the thoracic paraspinal region. She was diagnosed with acute myofascial strain of the thoracic spine and was discharged on ibuprofen and Flexeril.

D.C., reviewed the x-rays, which revealed: hypokyphosis of the thoracic spine, hypolordosis of the lumbar spine, misalignment with subluxations and hypomobility at L3, L4, L5, and S1, right misalignment from T1 through T15, hyperimbrication of L3, L4, L5, S1, and suspected herniated nucleus pulposus (HNP) at L5-S1. He assessed lumbosacral radiculitis and facet syndrome. The patient attended 18 sessions of therapy under his care consisting of traction, electrical stimulation, ultrasound, chiropractic manipulative treatment (CMT), and therapeutic exercises.

M.D., assessed lumbar disc disease with radiculopathy and sleep disorder and prescribed prednisone, hydrocodone (later replaced with methadone), and clonazepam. Magnetic resonance imaging (MRI) of the lumbar spine revealed: (1) Minimum-to-moderate degree of spondylosis throughout. (2) A broad-based bulging disc at L4-L5 and L5-S1. (3) Early disc desiccation in the lower lumbar spine.

Electromyography/nerve conduction velocity (EMG/NCV) study revealed some L5-S1 root irritation.

M.D., a neurosurgeon, assessed lumbar radicular syndrome secondary to spondylosis at L5-S1 and L4-L5 and administered a caudal epidural steroid injection (ESI).

In a peer review, , M.D., rendered the following opinions: (1) The diagnosis of lumbar strain appeared to be correct. Ongoing treatment was not reasonable, necessary, and appropriate. (2) There was no evidence that she was responding to the current treatment. No further treatment or diagnostic testing was necessary. (3) Extensive degenerative disease of the lumbar spine did not appear to have been aggravated by or caused by the current injury. (4) The patient could return to work without restrictions and no functional capacity evaluation (FCE) was necessary. There was no evidence of any current disability. (5) She appeared to have reached maximum medical improvement (MMI). (6) None of the finding on the MRI appeared to be related to any acute process and so did not appear to be related to the original work injury. All the findings were degenerative and pre-existing.

In a designated doctor evaluation (DDE), M.D., rendered the following opinions: (1) the patient had not reached MMI. (2) She would not be able return to work.

In August 2007, a lumbar discogram produced low back and right leg concordant pain at L4-L5 and central low back concordant pain at L5-S1. A repeat discogram revealed concordant low back pain at L2-L3 and full concordant low back pain at L3-L4. Postdiscogram computerized tomography (CT) revealed mild left posterolateral annular bulge or protrusion at L3-L4. There was a possibility of annular tear at this level. Dr. felt the patient was a potential candidate for fusion at L5-S1.

In early 2008, Dr. noted the patient had attended aquatherapy, which had not relieved her symptoms. She had progressive weakness of the right foot-drop with dorsal eversion being 1/5 and right extensor hallucis longus (EHL) of 2/5. Dr. requested a 360-degree fusion at L5-S1 and a Cybertech thoracolumbar lumbosacral orthosis (TLSO).

On January 28, 2008, Dr. noted 6 out of 8 positive Waddell's signs significant for symptom magnification. He rendered the following opinions: (1) The patient was at MMI with 0% whole person impairment (WPI) rating. (2) Extent of the compensable injury was lumbar strain. (3) If surgery became appropriate, a reevaluation would be needed.

On January 31, 2008, the request for lumbar fusion surgery and TLSO brace was nonauthorized with the following rationale: *The clinical picture is extremely cloudy. The patient has what appears to be a progressive foot-drop, but the original electrodiagnostic study only was suggestive of L5-S1 findings and the MRI did not indicate any significant nerve root compromise. The discography also indicated four levels of concordant pain, with L3-L4/L4-L5/L5-S1 being the most concordant and with that type of discography picture, one would question doing one-level fusion with the other concordant level present and also one would conceive of doing a three-level fusion with the lack of other objective findings. The patient does not have a neural arch defect. The patient does not have a segmental instability, as no excessive motion was indicated by the studies. The patient does not appear to have a primary mechanical back pain as that was not described in the history and physical notes provided. Therefore, at this point, the patient does not meet the Official Disability Guidelines (ODG) criteria for the requested fusion. The secondary request for the inpatient stay and a TLSO are, therefore, not indicated due to the surgical procedure not being indicated. The STALIF device is a device utilized in the anterior lumbar interbody fusion (ALIF) procedure and is not necessary. A case discussion would be imperative to determine the appropriate surgery here.*

A request for reconsideration of the surgery and TLSO brace was nonauthorized with the following rationale: *Request for three day inpatient stay was not applicable as the surgery is not approved. The anterior interbody fusion at L5-S1 with STALIF device with additional posterior decompression at L5-S1 with bilateral screw fixation and fusion is not medically necessary. I was unable to speak directly with the AP. It does not appear that this claimant is a candidate for surgery. Her examination by the designated doctor was normal, without any evidence of neurologic loss. The diagnostic information is not clear, with nondiagnostic discogram being used to direct surgery. Discography is unreliable at best and in this case does not justify a 360 degree fusion. There is no medical*

data that decompression is indicated. A brace would not be reasonable or necessary even if the fusion were approved. If a surgeon employs internal fixation, the orthosis hinders recovery and delays return of function. There is no scientific information on the benefit of bracing or improving fusion rates or clinical outcomes following instrumented lumbar fusion for degenerative disease. Although there is a lack of data on outcomes, there may be a tradition in spinal surgery of using a brace post fusion, but this tradition may be based on logic that antedated internal fixation, which now makes the use of a brace questionable.

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

There is no documentation from the provider specifically requesting the brace without surgery. The provider requested the brace with surgery. The surgery has not been approved therefore the brace is not needed.

Use of lumbar supports is not recommended by ODG for prevention of lower back pain.

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

- ODG- OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES**