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Notice of Independent Review Decision

DATE OF REVIEW: September 23, 2008

IRO CASE #:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

Lumbar laminectomy at L4/L5 level

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

Diplomate, American Board of Neurological Surgery

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 health care services in dispute.

ODG utilized for denials

PATIENT CLINICAL HISTORY [SUMMARY]:

The patient is a XX-year-old male who sustained an injury to his low back while changing heavy batteries on XX/XX/XX.

On January 3, 2007, the patient was evaluated by M.D., for lumbar strain. He was a known case of depression, anxiety and a sprained ankle. He was prescribed medications and placed on light duty by M.D., on January 5, 2007.

Magnetic resonance imaging (MRI) of the lumbar spine revealed L4-L5 herniated disc, which appeared to be compressing the neurostructures.

The patient was then examined by M.D., for low back pain with bilateral lower extremity weakness as well as pain in the groin.

On September 7, 2007, Dr. performed a minimal invasive discectomy for left sided L4-L5 herniated nucleus pulposus (HNP) resulting in significant left lower extremity radiculopathy. Postoperatively, Mr. attended therapy but developed right leg pain. A lumbar MRI revealed early degenerative disc disease (DDD) with a broad-based minimally compressive central/left paracentral subligamentous disc bulge at L4-L5. Mr. underwent two epidural steroid injections (ESIs) with pain relief for two weeks with the first ESI.

In May 2008, MRI of the lumbar spine was repeated which was unremarkable.

On June 5, 2008, the patient was seen by Dr. for low back pain and bilateral lower extremity pain. He reported to have undergone a right lumbar facet injection at L3/L4 and L4/L5 levels on April 16, 2008. Dr. assessed lumbar radiculopathy with severe pain in the right lower extremity whereas preoperative pain was in the left lower extremity. Electromyography/nerve conduction velocity (EMG/NCV) study was performed which revealed a left S1 radiculopathy with denervation potentials in both paraspinals.

On July 14, 2008, M.D., performed a DDE and noted left calf and left thigh atrophy on examination. He assessed maximum medical improvement (MMI) with whole person impairment rating of 10%. Dr. also opined that the patient was able to return to work with restrictions.

On July 17, 2008, Dr. noted 2/4 patellar and Achilles tendon reflexes, 4/5 gastrocnemius, and positive straight leg raise (SLR). He recommended lumbar laminectomy at the L4/L5 levels.

On August 8, 2008, M.D., denied the request for laminectomy at L4/L5 level with the following rationale: *"The L4/L5 laminectomy is not medically appropriate and indicated in this patient as there have been no conservative measures documented and there are no progressive neurologic deficits. He has no evidence of cauda equina syndrome or instability. The weakness has been of his calf with atrophy, and he has weakness in gastrocnemius soleus which is an S1 innervated muscle as opposed to the L4-L5 nerve roots which are more dorsiflexors. Thus, there is an inconsistency between the advanced imaging in this postoperative spine with poorly documented conservative measures."*

On August 25, 2008, M.D., denied the reconsideration request for lumbar laminectomy at L4/L5 with the following rationale: *"The patient's physical findings affecting the right lower extremity are not consistent with the MRI findings affecting the left L4-L5 disc space. The electrodiagnostic testing indicates left S1 radiculopathy but the L5-S1 is essentially normal. The findings are not consistent and do not support proceeding to surgery."*

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

Medical material reviewed listed numerically included:

1. An op report for L4-5 left discectomy on 9-7-2007 by MD.
2. Lumbar MRI report of 12-7-2007 and one of 5-28-2008, which the radiology report is not present, but it is referred to by other examiners.
3. A 6-5-2008 report, and a 7-19-2008 report by MD.
4. A 7-14-2008 report by MD.
5. Insurance Companies Utilization Review Decisions of 8-8-2008, 8-25-2008, and 9-9-2008.

This case involves a now XX-year-old male who was injured while changing heavy batteries on XX/XX/XX. Medications and light duty were unsuccessful in dealing with his trouble. Lumbar MRI on 8-23-2007 revealed changes that led to

a lumbar laminectomy on 9-7-2007. A left L4-5 discectomy was carried out. Postoperatively the patient continues to have pain despite physical therapy and epidural steroid injections in December of 2007. The most recent MRI of the lumbar spine on 5-8-2008 is reported by those other than the radiologist as being unremarkable. An EMG has revealed left S1 nerve root difficulty. A procedure on the right side has been proposed at the L4-5 level in hopes of dealing with the patient's difficulty. The patient had facet blocks on the right side at L4-5 and L5-S1 with some relief of pain.

I agree with the denial for the proposed operative procedure on the right side at L4-5. There is nothing on physical examination to suggest nerve root compression. Facet blocks pain relief is not an indication for a procedure designed to relieve radiculopathy. Repeat MRIs after the patient's surgical procedure on 9-7-2007 on two occasions failed to reveal anything on the right side for which the surgery has been proposed. From what is seen in the records, a repeat operative procedure at the L4-5 level on the side opposite his previous surgery would be of no more benefit than the previous surgery, which was apparently unsuccessful in dealing with his trouble.

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**