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Notice of Independent Review Decision

Date of the Notice of the Decision: 08/24/09
Date of the Notice of the Amended Decision: 8/28/09

DATE OF REVIEW: 08/24/09

IRO CASE NO.:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE:

Item in dispute: 62311 Lumbar epidural steroid injection at L4-5
72275 Epidurography

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

Texas Board Certified Neurosurgeon

REVIEW OUTCOME

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

Denial Upheld

INFORMATION PROVIDED TO THE IRO FOR REVIEW

1. IRO referral sheet.
2. Employer's First Report of Injury or Illness.
3. Initial evaluation dated 12/22/03.
4. Plan of care dated 12/22/03.
5. Head and spine SOAP note 01/02/04.
6. History, physical and neurological examination dated 01/07/04.
7. Back evaluation dated 02/18/04.
8. Physical therapy progress notes dated 02/19/04, 02/24/04, 02/26/04, 02/27/04, 03/01/04, 03/02/04, 03/04/04, 03/09/04, 03/10/04, and 03/11/04.
9. Follow-up from Dr. dated 02/11/04, 03/23/04, 04/16/04, 05/28/04, 06/29/04, 07/21/04, 08/27/04, 10/14/04, 10/29/04, 11/08/04, 11/19/04, 01/14/05, 02/17/05, 03/11/05, 06/10/05, 07/07/05,07/14/05, 08/19/05, 09/30/05, 11/17/05, 12/19/05,

07/07/06, 08/11/06, 11/10/06, 02/09/07, 05/11/07, 07/20/07, 12/21/07, 03/21/08, 06/13/08, 06/27/08, 10/16/08, 11/14/08, 11/21/08, 12/05/08, 02/27/09, 03/27/09, 05/29/09, 07/06/09, 07/16/09, 07/27/09, and 08/07/09.

10. Operative report dated 07/01/04.
11. Request for reconsideration dated 01/14/05.
12. IRO decision notification letter dated 01/03/05.
13. Chiropractic office visit notes dated 02/16/05, 02/21/05, 02/22/05, 02/25/05, 03/01/05, 03/03/05, 03/07/05, 03/08/05, 03/10/05, 03/14/05, 03/15/05, 03/17/05, 03/21/05, 03/22/05, 03/24/05, 03/28/05, 03/31/05, 04/04/05, 04/05/05, 04/11/05, & 04/12/05.
14. Request for reconsideration 03/31/05.
15. Texas Worker's Compensation work status report.
16. Letter from Evaluation Center dated 07/22/05.
17. History and physical dated 07/22/05.
18. Functional Capacity Evaluation dated 07/22/05.
19. Claims Management form.
20. Chronic pain evaluation dated 03/17/06.
21. opinion response form dated 05/08/06.
22. Texas Department of Insurance.
23. Letter of medical necessity dated 06/20/06.
24. Health and behavioral interventions dated 06/13/06, 06/15/06, 06/22/06, 06/27/06, 06/29/06, 07/05/06, and 07/11/06.
25. Lumbar spine x-ray dated 06/27/08.
26. Letter of medical necessity Dr. dated 12/01/08.
27. CT scan of the lumbosacral spine dated 06/12/09.
28. Preauthorization request form.
29. Letter of medical necessity Dr. dated 07/21/09.
30. 1st denial dated 07/16/09.
31. 2nd denial dated 07/28/09.
32. IRO summary 08/07/09.
33. Texas Department of Insurance notice of review agent of assignment.
34. **Official Disability Guidelines**

PATIENT CLINICAL HISTORY (SUMMARY):

The employee is a female whose date of injury is xx/xx/xx. The employee reported she was injured when she lifted a box and another box fell on it while lifting the box jerking her forward and causing pain in the lumbar spine. The employee was also hit in the lumbar spine two days later by a basket full of products. The employee was treated conservatively with physical therapy, medications and activity modification.

The employee was seen by Dr. for a neurological examination on 01/07/04 with primary complaints of pain in the lumbar spine, right and left legs, with numbness in the right leg and foot. Upon examination, Dr. reported the employee to be 4 feet 10 inches in height and weighed 98 pounds. A neurological examination reported tenderness to palpation of the lumbar spine and right buttock. Gait, heel, and toe walking produced some guarding of the low back. The employee was slow going from supine to sitting position secondary to low back pain. Straight leg raising was positive on the right at 60 degrees, producing low back and buttock pain. The motor examination revealed 5/5 strength in

all lower extremity muscle groups. The sensory examination was intact to pinprick. Reflexes were 1 and symmetric in the knees and absent in the ankles. The impression was right greater than left lumbar radiculopathy.

The records indicate the employee underwent a CT scan of the lumbar spine on 02/04/04, as well as x-rays of the lumbar spine. At L4-L5, there was reportedly a 1-2 mm diffuse disc protrusion which indented the thecal sac above the origin of the L5 nerve root sleeve with there being a 2 mm left foraminal hard disc at L4-L5 impinging on the exiting left L4 nerve root sleeve within the foramen. At L2-L3 and L3-L4, there was anterior spondylosis formation and a 1-2 mm retrolisthesis of the above noted segments.

The employee was referred for physical therapy and started on medications. The employee completed twelve sessions of physical therapy and was seen in follow-up by Dr. on 03/23/04. He noted the employee had finished her active physical therapy, and she stated she had not seen much difference. Low back pain ranged from 1-5/10 and was constant. Upon examination, there was positive tenderness to palpation with trigger points noted in the right buttock. Lumbar spine range of motion revealed flexion 60 degrees, extension 10 degrees producing low back pain, and lateral bending 10 degrees to the left and right. Facet signs remained positive. The motor examination revealed 5/5 muscle strength in all lower extremity muscle groups. Reflexes were 2 and symmetric. Straight leg raise was negative bilaterally. Patrick's test was positive on the right. The impression at that time was low back pain, 2 mm disc bulge at L4-L5 and L5-S1, and lumbar facet syndrome. The employee was recommended to undergo facet injections.

On 07/01/04, the employee underwent lumbar facet injections at L3-L4, L4-L5 and L5-S1 bilaterally.

A progress note dated 07/21/04 indicated the employee had undergone facet injections on 07/01/04, and the employee stated she did not obtain any relief from these. Dr. noted that since facet injections did not give her much relief, lumbar epidural steroid injections were to be ordered.

The request for epidural steroid injections was denied.

By letter dated 10/29/04, Dr. appealed the denial and requested reconsideration for lumbar epidural steroid injections.

By IRO decision notification letter dated 01/03/05, lumbar epidural steroid injections were denied for the following reasons: 1) except for one early notation, the injured individual had a normal neurologic examination and negative straight leg raise; 2) she had full range of motion and no pain with flexion; 3) her complaints were right sided while CT findings were left sided. The IRO report noted that epidural steroid injections were efficacious in the acute injury phase with radicular findings, which this injured employee did not have.

The employee was noted to have undergone chiropractic treatment from 02/16/05 through 03/03/05 with some improvement noted.

The employee was seen for Required Medical Evaluation (RME) by Dr. on 07/22/05 for complaints of pain in her back and right hip. Dr. noted that the employee sustained a strain/sprain of the lower back, right hip, and buttocks muscle, and had not sustained any structural damage to the body such as a fracture, dislocation, disc herniation, or nerve damage. Dr. noted this condition should resolve over a three to four month timeframe, and it was difficult to explain on an anatomical or physiological basis the ongoing problems as related to the back and hip. Dr. further noted that the employee should have long ago achieved Maximum Medical Improvement (MMI) and complete recovery. Dr. noted that the employee had primarily subjective complaints consistent with soft tissue complaints and should physically be able to resume and return to increased levels of activity on an objective basis. Dr. noted that a future treatment plan would only require follow-up evaluations on approximately two or three occasions for each calendar year for maintenance follow-up only. He noted the employee did not require additional diagnostic testing or invasive studies or injection procedures. It was also noted that the employee did not require durable medical equipment, formal physical therapy, chiropractic care, or work conditioning/work hardening programs. Dr. noted the employee should be on a home exercise program and using over-the-counter anti-inflammatory medications or analgesics, and should be doing as much walking as possible. Dr. performed a Functional Capacity Evaluation (FCE) and noted that the employee showed lack of maximum voluntary effort.

The employee continued to treat with Dr. and in August, 2005, Dr. noted the employee had a recent exacerbation of right hip and low back pain without precipitating event.

Dr. ’s report of 12/19/05 noted the employee was referred to Dr. for acupuncture which was approved.

The employee underwent chronic pain evaluation on 03/17/06 by Psy.D., licensed psychologist. Dr. noted that because the employee was working full-time, he was only going to recommend a course of health and behavioral intervention with cognitive behavioral therapy and biofeedback monitoring. The records indicate the employee underwent eight visits of health and behavioral intervention.

On 05/11/07, Dr. reported that the employee was being followed for chronic lumbar radiculopathy and had known disc bulges approximately 2 mm in size at L4-L5 and L5-S1. Dr. stated the employee had known lumbar facet syndrome, and her last facet injections in July, 2004 provided good results; however, previous notes from 2004 noted that the employee reported she did not obtain any relief from these. The employee was noted to continue to working full-time.

Dr. continued to treat the employee throughout 2008. Dr. noted that the employee complained of increasing pain in the low back and lower extremities, as well as increased pain in the left leg with numbness and tingling which more recently had begun to radiate to the right leg as well. He indicated the physical examination showed evidence of a left L5 radiculopathy with left foot dorsiflexion weakness and diminished Achilles reflex. Dr. requested CT scan of the lumbar spine.

A CT scan of the lumbosacral spine dated 06/12/09 reported a 2 mm central disc protrusion with accompanying spondylosis present at L5-S1 indenting the dural sac above the S1 root sleeves which was noted as more apparent than on previous study from 02/04/04. There was a 1-2 mm diffuse disc protrusion present at L4-L5 with a 2 mm left foraminal "hard disc which reaches the exiting left L4 root sleeve". Findings were noted as similar to previous study. There was anterior spondylosis at L1-L2, L2-L3, and L3-L4 with minimal retrolisthesis at L2-L3 and L3-L4 with no stenosis.

Dr. saw the employee in follow-up on 07/06/09. Upon examination, the employee was noted to have mild tenderness to palpation of the right lower lumbar area. Lumbar range of motion revealed 65 degrees of flexion, 5 degrees extension, which produces pain in the lower back, and 10 degrees of right lateral bending, which increased right leg pain and 10 degrees left lateral bending. Patellar reflexes were 2 and symmetric bilaterally. Achilles reflexes were diminished on the right as compared to the left. Motor examination revealed dorsiflexion and EHL weakness on the left, unchanged from previous visit. Sensation was grossly intact in the bilateral lower extremities. Straight leg raise at 45 degrees on the right produced ipsilateral back pain. Dr. recommended lumbar epidural steroid injections.

Utilization review determination dated 07/16/09 by Dr. recommended denial of lumbar epidural steroid injections. Dr. noted the extent of injury was previously defined as strain/sprain based on RME from 02/05. She further noted there was no interval documentation, and that current complaints and physical exam were not concordant with prior imaging. Dr. further stated that epidural steroid injections were not medically reasonable for chronic back pain, and that the examination documents right/left discrepancy with right decreased Achilles, left decreased EHL strength and negative straight leg raise. There was no frank nerve root compression documented, and Dr. determined that ***Official Disability Guidelines*** criteria for epidural steroid injection at L4-L5 were not met.

An appeal request for lumbar epidural steroid injection was reviewed on 07/28/09 by Dr. who noted that the 06/12/09 CT scan at L4-L level was unchanged from previous imaging. Dr. further documented lapses in evaluation and treatment, noting that prior records from 2004 through 2006 reflect facet syndrome as diagnostic label assigned by Dr. and now changing to radicular symptoms years later. Dr. noted that serial examinations did not establish radiculopathy as resulting from injury in 2003 and that the request was not consistent with ***Official Disability Guidelines***.

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

The request for lumbar epidural steroid injection at L4-L5 and epidurography is not seen as medically necessary. Previous IRO decision from 01/05 found that the employee had normal neurologic examination and negative straight leg raise and also noted complaints were right sided with CT findings on the left side. Most recent utilization review determinations by Dr. and Dr. also noted the lack of documented radicular findings as well as discrepancy in right/left symptoms. It was also noted that from 2004-2006 the employee was diagnosed with facet syndrome and subsequently changing to radicular symptoms. There is no evidence of clear cut neurocompressive pathology on

most recent CT scan. Chronic duration of symptoms (> 6 months) has also been found to decrease success rates with a threefold decrease found in employees with symptom duration > 24 month. Lumbar epidural steroid injection at L4-L5 and epidurography is not indicated as medically necessary and appropriate for this injury that occurred over five years ago.

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

Official Disability Guidelines

Epidural steroid injections (ESIs), therapeutic	Recommended as a possible option for short-term treatment of radicular pain (defined as pain in dermatomal distribution with corroborative findings of radiculopathy) with use in conjunction with active rehab efforts. See specific criteria for use below. Radiculopathy symptoms are generally due to herniated nucleus pulposus or spinal stenosis, although ESIs have not been found to be as beneficial a treatment for the latter condition. Short-term symptoms: The American Academy of Neurology recently concluded that epidural steroid injections may lead to an improvement in radicular pain between 2 and 6 weeks following the injection, but they do not affect impairment of function or the need for surgery and do not provide long-term pain relief beyond 3 months. (Armon, 2007) Epidural steroid injection can offer short-term pain relief and use should be in conjunction with other rehab efforts, including continuing a home exercise program. There is little information on improved function or return to work. There is no high-level evidence to support the use of epidural injections of steroids, local anesthetics, and/or opioids as a treatment for acute low back pain without radiculopathy. (Benzon, 1986) (ISIS, 1999) (DePalma, 2005) (Molloy, 2005) (Wilson-MacDonald, 2005) This recent RCT concluded that both ESIs and PT seem to be effective for lumbar spinal stenosis for up to 6 months. Both ESI and PT groups demonstrated significant improvement in pain and functional parameters compared to control and no significant difference was noted between the 2 treatment groups at 6 months, but the ESI group was significantly more improved at the 2nd week. (Koc, 2009) Use for chronic pain: Chronic duration of symptoms (> 6 months) has also been found to decrease success rates with a threefold decrease found in patients with symptom duration > 24 months. The ideal time of either when to initiate treatment or when treatment is no longer thought to be effective has not been determined. (Hopwood, 1993) (Cyteval, 2006) Indications for repeating ESIs in patients with chronic pain at a level previously injected (> 24 months) include a symptom-free interval or indication of a new clinical presentation at the level. Criteria for the use of Epidural steroid injections: Note: The purpose of ESI is to reduce pain and inflammation,

	thereby facilitating progress in more active treatment programs, and avoiding surgery, but this treatment alone offers no significant long-term functional benefit. (1) Radiculopathy must be documented. Objective findings on examination need to be present. For unequivocal evidence of radiculopathy, see AMA Guides, 5th Edition, page 382-383. (Andersson, 2000) (2) Initially unresponsive to conservative treatment (exercises, physical methods, NSAIDs and muscle relaxants). (3) Injections should be performed using fluoroscopy (live x-ray) and injection of contrast for guidance. (4) Diagnostic Phase: At the time of initial use of an ESI (formally referred to as the "diagnostic phase" as initial injections indicate whether success will be obtained with this treatment intervention), a maximum of one to two injections should be performed. A repeat block is not recommended if there is inadequate response to the first block (< 30% is a standard placebo response). A second block is also not indicated if the first block is accurately placed unless: (a) there is a question of the pain generator; (b) there was possibility of inaccurate placement; or (c) there is evidence of multilevel pathology. In these cases a different level or approach might be proposed. There should be an interval of at least one to two weeks between injections. (5) No more than two nerve root levels should be injected using transforaminal blocks. (6) No more than one interlaminar level should be injected at one session. (7) Therapeutic phase: If after the initial block/blocks are given (see "Diagnostic Phase" above) and found to produce pain relief of at least 50-70% pain relief for at least 6-8 weeks, additional blocks may be required. This is generally referred to as the "therapeutic phase." Indications for repeat blocks include acute exacerbation of pain, or new onset of symptoms. The general consensus recommendation is for no more than 4 blocks per region per year. (CMS, 2004) (Boswell, 2007) (8) Repeat injections should be based on continued objective documented pain relief, decreased need for pain medications, and functional response. (9) Current research does not support a routine use of a "series-of-three" injections in either the diagnostic or therapeutic phase. We recommend no more than 2 ESI injections for the initial phase and rarely more than 2 for therapeutic treatment. (10) It is currently not recommended to perform epidural blocks on the same day of treatment as facet blocks or sacroiliac blocks or lumbar sympathetic blocks or trigger point injections as this may lead to improper diagnosis or unnecessary treatment. (11) Cervical and lumbar epidural steroid injection should not be performed on the same day. (Doing both injections on the same day could result in an excessive dose of steroids, which can be

	dangerous, and not worth the risk for a treatment that has no long-term benefit.)