



Medical Review Institute of America, Inc.
America's External Review Network

DATE OF REVIEW: June 8, 2009

IRO Case #:

Description of the services in dispute:

Preauthorization – Inpatient lumbar spine surgery, examination under anesthesia, lumbar laminectomy, discectomy arthrodesis with cages, posterior instrumentation and implantation of a bone growth stimulator.

A description of the qualifications for each physician or other health care provider who reviewed the decision

The physician who provided this review is a fellow of the American Board of Orthopaedic Surgery. This reviewer is a fellow of the North American Spine Society and the American Academy of Orthopaedic Surgeons. This reviewer has been in active practice since 1990.

Review Outcome

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

Upheld

Provide a description of the review outcome that clearly states whether or not medical necessity exists for each of the health care services in dispute.

Medical necessity does not exist for the requested inpatient lumbar spine surgery, examination under anesthesia, lumbar laminectomy, discectomy arthrodesis with cages, posterior instrumentation and implantation of a bone growth stimulator.

Information provided to the IRO for review

Records From The State:

Confirmation of receipt of a request for review by an IRO, 5/19/09, 5 pages

Request for a review by an IRO, 5/18/09, 3 pages

Utilization review determination, 4/14/09, 2 pages

Reconsideration/appeal of adverse determination, 5/13/09, 1 page

Letter 5/19/09, 1 page

Records Received from Dr. :

List of surgery codes, undated, 1 page
Fax coversheet 5/6/09, 1 page
MRI report, 4/10/09, 1 page
Operative report, 8/24/06, 1 page
Radiology report, 8/24/06, 2 pages
Operative report, 11/9/06, 1 page
Radiology report, 11/9/06, 1 page
Initial consult, 1/9/08, 2 pages
New patient surgical consultation, 8/5/08, 2 pages
Psychological evaluation, 3/13/09, 9 pages
History and physical, 1/9/08, 2 pages
Operative report, 8/24/06, 2 pages
Electromyography and nerve conduction data, 2/12/07, 1 page
Electromyography and nerve conduction report, 2/14/07, 2 pages
Radiology report, 11/9/06, 1 page
Radiology report, 8/24/06, 2 pages
Chart note, 6/22/07, 3 pages
Chart note, 5/23/07, 2 pages
Chart note, 4/18/07, 2 pages
Operative report, 11/9/06, 1 page
Chart note, 4/18/07, 2 pages
Chart note, 5/23/07, 2 pages
Chart note, 6/23/07, 2 pages
Plan of care, 7/23/07, 2 pages
ESI report, 6/16/06, 2 pages
CT report, 11/9/06, 2 pages
Electromyograph and nerve conduction data, 2/12/07, 2 pages
Electromyograph and nerve conduction report, 2/14/07, 2 pages
Chart note, 3/6/07, 2 pages
Preauthorization request, 3/8/07, 1 page
Information from the Journal of Neurosurgery: Spine, 2007, 33 pages

Records Received :

Letter 5/22/09, 2 pages
Designated doctor evaluation, 12/27/07, 3 pages
Letter 10/17/08, 1 page

Patient note, 2/11/08, 3 pages
Designated doctor evaluation, 4/26/08, 6 pages
Follow up evaluation, 6/6/08, 1 page
Daily note, 6/12/08, 1 page
Lunch group note, 6/12/08, 1 page
Follow up evaluation, 9/2/08, 1 page
Letter from MD, 10/14/08, 2 pages
Letter from MD, PA, 1/21/09, 9 pages
Work status report, 3/27/069, 2 pages
Work status report, 9/15/06, 1 page
Work status report, 11/1/06, 1 page
Work status report, 12/13/07, 1 page
Work status report, 12/27/07, 1 page
Report of medical evaluation, 7/24/08, 1 page
Work status report, 10/11/08, 1 page
Work status report, 2/11/08, 1 page
Report of medical evaluation, 4/26/08, 1 page
Work status report, 7/1/08, 1 page
Work status report, 9/2/08, 1 page
Report of medical evaluation, 3/15/06, 1 page
Report of medical evaluation, 1/21/09, 1 page
Work status report, 12/10/08, 1 page
Information undated, 1 page
Daily note, 6/9/08, 1 page
Psychoeducation group note, 6/9/08, 1 page
Procedure list, undated, 1 page
Request for reconsideration, undated, 1 page
Interdisciplinary program team conference note, 6/6/08, 2 pages
Interdisciplinary program team conference note, 6/13/08, 2 pages
Consultation report, 5/5/06, 2 pages
Procedure order and pre-certification form, 8/18/06, 1 page
Operative report, 8/24/06, 1 page
Radiology report, 8/24/06, 3 pages
Radiology progress notes, 8/24/06, 1 page
Procedure order and pre-certification form, 8/18/06, 1 page
Physician's orders, 8/24/06, 1 page
Surgical progress notes, 11/9/06, 1 page
Evaluation note, 12/13/07, 2 pages
Initial evaluation, 12/18/07, 2 pages

Admission assessment, 11/9/06, 2 pages
Nursing admission assessment, 11/9/06, 1 page
Treatment plan of care, 11/9/06, 1 page
Home instructions, 11/21/06, 1 page
Treatment plan of care, 8/24/06, 1 page
Discharge instructions, 8/24/06, 1 page
MRI report, 4/10/06, 8 pages
Utilization review – provider request form, 3/28/06, 1 page
Plan of care, 3/27/06, 2 pages
Treatment request, 3/27/06, 1 page
ESI report, 6/16/06, 1 page
Neurosurgery document, 6/16/06, 1 page
Chart note, 6/22/07, 1 page
Chart note, 7/14/06, 2 pages
Chart note, 9/15/06, 2 pages
Chart note, 11/1/06, 2 pages
Certification of medical necessity, 7/1/08, 1 page
Required medical examination notice, 8/5/08, 2 pages
Chart note, 8/18/06, 1 page
Chart note, 12/5/06, 2 pages
Chart note, 1/18/07, 1 page
Chart note, 4/18/07, 1 page
Chart note, 5/23/07, 1 page
Follow up evaluation, 4/30/08, 1 page
Follow up evaluation, 5/28/08, 1 page
Letter from MD, 2/24/09, 1 page
Follow up evaluation, 2/25/09, 1 page
Chart note, 5/5/06, 2 pages
Chart note, 9/15/06, 2 pages
Chart note, 7/14/06, 2 pages
Chart note, 3/6/07, 2 pages
Chart note, 11/1/06, 2 pages
Chart note, 5/6/06, 2 pages
Chart note, 1/18/07, 2 pages
Evaluation note, 1/11/08, 2 pages
Functional capacity evaluation, 2/21/08, 3 pages
Evaluation summary report, 2/21/08, 16 pages
Job description, 2/22/08, 2 pages
Work status report, 2/25/09, 1 page

Work status report, 5/38/08, 1 page

Work status report, 5/30/08, 1 page

Work status report, 5/19/08, 1 page

Patient clinical history [summary]

According to the medical records provided, this is a male who has a history of a low back injury related to a work incident. Over the last xxx years he has had multiple evaluations and treatments by multiple spine surgeons and has not yet had any operative intervention. Medical narrative is as follows:

On xx/xx/xx the claimant was evaluated at the Clinic by MD. At that time he complains of low back pain after lifting a heavy piece of steel. The person that was in front of him dropped the steel and the weight was transferred to the patient. He developed low back pain and right lower extremity pain. He had one epidural steroid injection, without significant long-term relief. His last day of work was xx/xx/xx. Pain radiated from the back to the right groin and testicles and the inner thigh. It is worse in the morning bending forward and sitting in the car. Physical examination at that time showed normal sensation. No clear-cut weakness in the upper and lower extremities. Reflexes were symmetric. No ankle clonus was noted and sensory examination to light touch was normal. Gait was normal. The patient was able to tandem gait. No rigidity. MRI was reviewed at that time which showed partial collapse of the L4-5 disc with a central disc herniation. The plan was to schedule the patient for physical therapy for 6 weeks. If he did not improve, then the physician wanted to schedule him for an additional epidural steroid injection.

On 08/18/06 he had an evaluation by NP at the Clinic. At that time, the complaint was low back pain that radiated into the posterior thigh all the way down the hamstring and knee of the right leg. It also radiated to the calf. It was a 6/10. Quality was sharp burning throbbing and stabbing associated with numbness and stiffness. Physical examination showed the patient to be neurologically intact with a normal gait and able to tandem gait. There was no clubbing or cyanosis and no weakness in the upper and lower extremities. Tone was normal. There was no rigidity or spasticity. MRI of the lumbar spine was reviewed which revealed herniated lumbar disc at L4-5. Impression was L5 radiculopathy. Plan was to proceed with nerve root block.

The claimant followed up on 12/05/06 at the same clinic. At that time it is noted that he had since undergone discography at L4-5 and L5-S1 with a positive concordance at L4-5. Although the L5-S1 disc showed extravasation it was not considered positive. Physical examination was unchanged at that time. Results were given to the patient concerning the discogram and options were to continue conservative treatment measures such as epidural steroid injections or physical therapy. The patient was requesting more definitive treatment consisting of surgery. He was given medication refills of Norco and surgery was pending approval.

On 01/18/07 Dr. saw the claimant at Clinic. It was noted that there was a request made for lumbar laminectomy and fusion at L4-5 however it had been denied. Physical examination showed some mild weakness of the right extensor hallucis longus. Reflexes were symmetric and there was no ankle clonus. Decreased sensation to the dorsum of the right foot was noted. Impression was low back pain, lumbar radiculopathy, and central herniated lumbar disc at L4-5. Positive discogram at L4-5 was noted. The patient was scheduled for NCV testing and to again submit for approval for surgery at L4-5.

Subsequent follow-ups occurred on 04/18/07 and 05/23/07 at the Clinic. It is mentioned in the latter note that request for artificial disc replacement had been denied. The assessment plan continued to be lumbar back pain with radiculopathy, secondary to disruption of the L4-5 disc. Other alternative was to fuse the L4-5 disc. The patient was going to think about this decision and follow up.

On 01/09/08 the claimant was evaluated at the Spine and Orthopedic Institute. This is the office of Dr. At that time it was opined that the patient should have repeat lumbar discogram and it was noted that plain radiographs revealed the patient to have hypermobility at L3-4 and L4-5 segments. It was also recommended that repeat lumbar MRI be performed.

A designated doctor evaluation pre dates the last few notes and occurred on 12/27/07. This was performed by Dr. The impression was that this claimant had clinical and objective findings that demonstrate lumbar radiculopathy. ESIs had failed to produce relief. He had a full course of physical therapy. Surgery is an option at this time however total disc replacement was not considered advisable since it is in the experimental phase based on ODG and Medicare guidelines.

On 01/11/08 the claimant had an evaluation at Pain Management by Dr. At that point, the impression was lumbosacral disc disorder and significant mood disturbance directly related to the work injury. The claimant was to continue current medications which include Norco 10/325 1 po tid, Robaxin 750 mg 1 po qhs. The Robaxin was increased to 2 and Celexa was added.

Additional designated doctor examination occurred on 04/26/08 by M.D. At that time, impairment rating was assigned to 5 percent whole person impairment rating.

On 08/05/08 the claimant was evaluated by Dr. Orthopedic Spine Surgeon. At that time, the physical examination showed mild vertebral muscle spasms, positive extensor lag, and positive sciatic notch tenderness bilaterally, worse on the left. Positive finger test and positive Lasegue's bilaterally at 45 degrees. There was noted to be weakness of the gastrocsoleus and extensor hallucis longus on the left. Assessment was lumbar herniated nucleus populous with instability at

L4-5 and L5-S1 with failure of conservative treatment greater than xxx years. Plan was previously discussed with this patient and his options were to continue with his current treatment plan or to proceed with surgical intervention. Surgical intervention was planned that included decompressive lumbar laminectomy, discectomy, arthrodesis with internal fixation and bone growth stimulator at L4-5 and L5-S1.

The claimant continued pain management therapy and again ultimately decided not to proceed with surgery at that time.

An RME occurred on 01/21/09 by Dr. At that time the claimant complained of continued significant pain in the low back radiating to the groin anteriorly to the distal thighs as well as numbness in that area. He was currently taking Hydrocodone and Lunesta. Pain was increased by sitting or standing for too long. Examination showed no significant neurologic deficits, muscle strength was normal bilaterally. There was no significant dysesthesia noted. 3/8 positive Waddell's sign was noted. Diagnosis was moderate to severe central and foraminal stenosis at L4-5 secondary to disc bulge and hypertrophic changes. The examinee did not want surgery at that time. It was noted he had extensive conservative treatment over nearly 3 years. There were few signs of symptom magnification present. There were no objective findings on physical examination of nerve dysfunction in the lower extremities. It was opined that the examinee was at maximum medical improvement as of 01/21/09 because he had extensive conservative treatment and declined surgery. A 5% whole person impairment rating was deemed appropriate and continued.

Analysis and explanation of the decision include clinical basis, findings and conclusions used to support the decision.

The submitted clinical information does not indicate that the patient has meets ODG criteria for a fusion procedure at this time. The records indicate the patient has received extensive conservative treatment and has been unresponsive to conservative management. The patient has previously declined operative intervention in the past. The records indicate variability between the examining physician's physical examinations. A recent RME performed on 01/21/09 reports no evidence of neurologic compromise and notes 3/8 Waddell's signs. The record does not contain any clear documentation of instability and the patient has not been referred for preoperative psychiatric evaluation as required by the ODG. In the absence of documented instability and a preoperative psychiatric clearance the request cannot be certified as medically necessary.

A description and the source of the screening criteria or other clinical basis used to make the decision:

The Official Disability Guidelines, 13th edition, The Work Loss Data Institute.

The American College of Occupational and Environmental Medicine Guidelines; Chapter 12. Page

307.

Gibson JN, Waddell G. Surgery for degenerative lumbar spondylosis: updated Cochrane Review. *Spine*. 2005 Oct 15;30(20): 2312–20.

Atlas SJ, Delitto A. Spinal Stenosis: Surgical versus Nonsurgical Treatment. *Clin Orthop Relat Res*. 2006 Feb;443: 198–207.

Resnick DK, Choudhri TF, Dailey AT, Groff MW, Khoo L, Matz PG, Mummaneni P, Watters WC 3rd, Wang J, Walters BC, Hadley MN; American Association of Neurological Surgeons/Congress of Neurological Surgeons. Guidelines for the performance of fusion procedures for degenerative disease of the lumbar spine. Part 7: intractable low-back pain without stenosis or spondylolisthesis. *J Neurosurg Spine*. 2005 Jun;2(6): 670–2.

Bambakidis N, Feiz-Erfan I, Klopfenstein J, Sonntag V. Indications for Surgical Fusion of the Cervical and Lumbar Motion Segment *SPINE* Volume 30, Number 16S, pp S2–S6 ©2005, Lippincott Williams & Wilkins, Inc.