



Notice of Independent Review Decision

IRO REVIEWER REPORT

DATE OF REVIEW: 1/18/10

IRO CASE #:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE:

Determine the appropriateness of the previously denied request for APPEAL lumbar laminectomy, discectomy, arthrodesis with cage posterior instrumentation and implantation of bone growth stimulator (EBI) at L4-S1 with 2 days inpatient stay.

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

Texas licensed orthopedic surgeon.

REVIEW OUTCOME:

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

- | | |
|---|----------------------------------|
| <input checked="" type="checkbox"/> Upheld | (Agree) |
| <input type="checkbox"/> Overturned | (Disagree) |
| <input type="checkbox"/> Partially Overturned | (Agree in part/Disagree in part) |

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.

The previously denied request for APPEAL lumbar laminectomy, discectomy, arthrodesis with cage posterior instrumentation and implantation of bone growth stimulator (EBI) at L4-S1 with 2 days inpatient stay.

INFORMATION PROVIDED TO THE IRO FOR REVIEW:

- Notice to xxxxxx. of Case Assignment dated 1/4/2010.

- Notice of Utilization Review Findings dated 12/30/09.
- Reconsideration/Appeal of Adverse Determination Letter dated 12/30/09.
- Utilization Review Determination Letter dated 12/9/09.
- Office Visit Report/New Patient Surgical Consultation Report dated 11/24/09, 8/5/08.
- Lumbar Spine Exam Results dated 11/13/09.
- Evaluation Notes dated 11/18/09, 11/4/09, 10/29/09, 2/11/08, 1/11/08, 6/16/06.
- Required Medical Examination Report/Letter dated 9/30/09, 1/21/09.
- Review Report dated 6/8/09.
- Follow Up Evaluation Report dated 5/18/09, 2/25/09, 12/10/08, 9/2/08, 6/6/08, 5/28/08.
- Psychological Evaluation Report dated 3/13/09.
- Assessment of Hypnotic Susceptibility dated 3/5/09.
- Progress Note dated 3/5/09.
- Report of Medical Evaluation dated 1/21/09, 4/26/08, 12/27/07.
- Team Conference Notes dated 6/13/08, 6/6/08.
- Work Hardening/Chronic Pain/Work Conditioning Daily Note dated 6/12/08, 6/10/08, 6/9/08.
- Lunch Group Note dated 6/12/08.
- Transportation/Lodging Documentation Sheet dated 6/12/08.
- Group Progress Note dated 6/10/08.
- Group Note dated 6/10/08.
- Psychoeducation Group Note dated 6/9/08.
- Individual Psychotherapy Note dated 5/30/08.
- Designated Doctor Evaluation Report dated 4/26/08, 12/27/07.
- Initial Psychological Evaluation dated 2/21/08.
- Letter of Medical Necessity dated 2/7/08.
- Initial Consult Report dated 1/9/08.
- Texas Workers' Compensation Work Status Report dated 12/27/07.
- Assessment Report dated 6/22/07.
- Assessment Notes dated 6/22/07, 5/23/07, 4/18/07.
- Summary of Medical Records Report dated 4/6/07.
- Electromyography and Nerve Conduction Report dated 2/14/07, 2/12/07.
- Radiology Report dated 11/9/06, 8/24/06.
- Operative Report dated 11/9/06, 8/24/06.
- Neurosurgery-Procedure Order and Pre-Certification Form dated 8/24/06.
- Physician's Orders Note dated 8/24/06.
- Radiology Progress Notes dated 8/24/06.
- Preliminary Report dated 7/14/06.
- Clinic Neurosurgery Procedure Report dated 6/16/06.
- Progress/Treatment Note dated 6/16/06, 6/14/06, 6/8/06, 6/6/06, 6/2/06, 6/1/06, 5/30/06, 4/5/06, 4/3/06.
- Diagnostic Imaging Report dated 5/4/06.

- Surgery Codes Sheet (unspecified date).
- ODG Guidelines (unspecified date).

PATIENT CLINICAL HISTORY (SUMMARY):

Gender: Male

Date of Injury: xx/xx/xx

Mechanism of Injury: Lifting a railroad tie.

Diagnosis: Lumbar sprain, myalgia, myositis and weakness.

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

This male reported a low back injury on xx/xx/xx. The mechanism of injury occurred when he lifted a railroad tie. The claimant was diagnosed with lumbar sprain, myalgia, myositis and weakness. He was treated with physical therapy (PT), activity modification, medications and epidural steroid injections (ESIs) on 05/04/06 and 06/16/06. Reference was made to a CT study performed on 01/09/06, with findings of spondylitic changes. Reference was made to a lumbar MRI, from 04/10/06, with findings of desiccation of L4-5 with annular tear, facet hypertrophy and mild spinal stenosis. Reference was also made to lumbar radiographs, on 04/10/06, which noted mild degenerative changes at L3-4 and L4-5. Dr. noted, on 07/14/06, that the claimant had a L4-5 disc herniation with right posterior hip, quadriceps, buttock, medial thigh and testicle pain. He was noted to be a smoker. The physical examination demonstrated right antalgic gait, bilateral extensor hallucis longus weakness of 4/5, intact sensation and equal reflexes at 2+. He continued narcotic analgesia and remained off of work. A lumbar CT and myelogram were performed, on 08/24/09, which noted L2-3 and L3-4 mild disc bulge with mild encroachment on the anterior dural sac, inferior foraminal recesses, degenerative facet changes without significant hypertrophy; L3-4 mild to moderate canal stenosis, mild bilateral foraminal stenosis; L4-5 moderate disc bulge with facet degeneration and hypertrophy, ligamentous flavum thickening posteriorly, moderate to prominent central canal stenosis, moderate to prominent bilateral foraminal stenosis; L5-S1 mild disc bulging causing mild encroachment on the dural sac and inferior right foraminal recess with maintained left foramen and facet joints; and myelogram findings of mild anterior extradural defects at L2-3 and L3-4, as well as moderate anterior extradural defect at L4-5 with associated mild to moderate spinal canal stenosis at L4-5. The lumbar CT/discogram study, on 11/09/06, noted L4-5 extravasation with moderate to severe bilateral foraminal and central canal stenosis with reproduction of the claimant's exact pain; and L5-S1 extravasation with mild disc bulge, no focal protrusion, bilateral foraminal stenosis with no canal stenosis and no pain response. Nerve conduction studies, on 12/12/07, noted mild diffuse polyneuropathy. An electromyography study, on 02/14/07, noted diffuse distal polyneuropathy with some chronic radiculopathy or lumbar plexopathy. A record review conducted by Dr., on 04/06/07, noted MRI findings from an unknown date of mild spinal stenosis at L4-5 without evidence of herniation or disc bulge and no

foraminal disease. It was noted that the claimant had treated conservatively with four ESIs and PT with no remission in symptoms. Dr. noted that there was evidence of significant focal disc pathology at L4-5 and recommended fusion at L4-5 with decompression of the neural elements and stabilization. Dr. saw the claimant on 05/23/07 and 06/22/07, for discussion of surgery. The physical examination demonstrated mild weakness of the right tibialis anterior of -5/5 with normal reflexes and normal gait. On 06/22/07, a 360 degree fusion was recommended. A designated doctor evaluation by Dr., on 12/27/07, noted that the claimant was taking Hydrocodone, Ultracet and Methocarbamol. The physical examination demonstrated an antalgic gait with limited motion, mild spasm, no atrophy, no weakness, intact sensation and equal reflexes with 1+ at the ankles and 2+ at the knees. Dr. did not feel the claimant was at maximum medical improvement and surgery was still an option. Dr. saw the claimant, on 01/09/08, with mention of urinary urgency and frequency, ongoing use of medications, normal gait, limited motion, zero Waddell's, bilateral hamstring weakness at 4/5, normal reflexes and abnormal sensation in the left L5 distribution. Dr. noted the discogram did not test a normal supra adjacent level and recommended it be repeated. Dynamic radiographs demonstrated retrolisthesis of L3 on L4 and L4 on L5 which worsened with extension to approximately seven millimeters at L3-4 and five millimeters at L4-5, and flexion resulted in anterior translation and normalization of L4 on L5 and L3 on L4. Celexa was added on 01/11/08, for a significant mood disturbance. A designated doctor evaluation by Dr. on 04/26/08, referenced a functional capacity evaluation (FCE), from 02/21/08, which indicated that the claimant could return to work at the required demand level. The physical examination demonstrated limited motion, intact sensation and normal strength. He was placed at maximum medical improvement (MMI) with five percent impairment. He began Cymbalta on 05/28/08. He attended a multidisciplinary work hardening program, in June of 2008, which included psychiatric treatment. Dr. saw the claimant, on 08/05/08, for ongoing back and bilateral lower extremity pain with the left being worse than the right. Dr. noted the myelogram revealed a L4-5 space occupying lesion. Dynamic radiographs, from 08/05/08, noted instability at both L4-5 and L5-S1 with the L4-5 angle measuring 15 degrees with flexion to zero degrees for total of 15 degree change with facet subluxation and foraminal stenosis; L5-S1 extension angle of 27 degrees which corrected to five degrees for a total of 22 degree change with facet subluxation and foraminal stenosis; and indication that both levels were considered unstable by medical criteria. Dr. recommended decompressive laminectomy, discectomy and arthrodesis with internal fixation and bone growth stimulation at L4-5 and L5-S1, as well as the claimant was instructed to quit smoking. On 12/10/08, reference was made to a revision impairment rating to 20 percent to reflect the instability. Hydrocodone was increased, Lunesta and Methocarbamol were continued. A required medical evaluation conducted on 01/21/09, by Dr., noted that the claimant did not want surgery. The physical examination demonstrated normal gait, intact strength, normal reflexes, decreased sensation along the anterior left distal thigh and positive three of ten Waddell's. He was considered to be at maximum medical improvement with five percent impairment. The recommendation continued for surgery. Zoloft was added on 02/25/09. A psychiatric evaluation, completed on 03/13/09, considered the claimant to be a fair to good risk for lumbar surgery. A

repeat required medical evaluation by Dr., on 09/30/09, noted that the claimant did want surgery, had slight pain with axial compression, limited extension, intact strength and positive bilateral straight leg raises. Dr. noted that the claimant needed decompressive laminectomy at L4-5 with possible fusion. A chiropractic evaluation, on 10/29/09, noted paresthesia along the left L5-S1 dermatome, 4/5 left extensor hallucis longus weakness and absent posterior tibial reflex. Dr. saw the claimant, on 11/04/09, for medication management and stated that the claimant had some erectile dysfunction, and low back pain with mostly right lower extremity radicular pain. The physical examination demonstrated decreased left knee reflex, positive left straight leg raise and increased depression. Xanax was added. Dynamic radiographs, on 11/13/09, noted segment instability at L2-3 and L3-4 with multilevel mild to moderate disc space narrowing; L2-3 four millimeter retrolisthesis in extension and two millimeters in flexion; L3-4 three millimeter retrolisthesis in extension and neutral in flexion; L4-5 unchanged three millimeter retrolisthesis; and anterior margin osteophytes from L2-5. His medications were continued. Dr. saw the claimant with his outside radiographs, on 11/24/09, and noted a segmental instability pattern at L2-3 and L3-4 with complete collapse of the anterior column support at L4-5 and L5-S1. Dr. indicated he was unable to get angular measurements from the CD and requested the films. Dr. noted the claimant's back pain was greater than his leg pain, as well as right greater than left leg pain. Surgery was again discussed. The request is to determine the medical necessity for multi level decompression fusion and bone growth stimulator for this individual. The evidence-based literature "ODG" specifically discusses the indication for surgical fusion, noting that the most compelling indications are for those individuals who have progressive neurologic deficit, tumor or infection. The indications also included structural instability which is documented on imaging. Lastly, the guidelines state that fusion for a degenerative condition should be viewed with some skepticism to the extent that the evidence based literature is unclear. When patients are considered candidates for fusion they should have exhausted all forms of conservative care as well as addressing any confounding psychosocial issues. There was a long history of treatment for this individual's back condition, dating back for years. The records reported that there were varying degrees of instability of at least 4 levels in the lumbar spine. An RME suggested that surgery was indicated but recommended a decompressive procedure with possible fusion at one level. The RME did not specifically recommend multi level fusion. Perhaps more notable is the fact that the radiographs from November of 2009 suggested that there was segmental instability at L2-3 and L3-4, yet the surgical procedure recommended L4-5 and L5-S1. Clarification regarding the surgical levels would be necessary. Of note, the psych evaluation was done in March of 2009 and suggested that the patient was only a fair to good risk for surgery. In addition, the individual reportedly did not want surgery in January, yet months later has now requested that surgery be performed. All of these issues need to be addressed before this gentleman could undergo surgery at the very least. The records did not address these confounding issues and, thus, the request for inpatient laminectomy, discectomy, arthrodesis with cages, posterior instrumentation, and implantable bone growth stimulator (EBI) L4-5-S1 with two days inpatient length of stay cannot be viewed as medically necessary.

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

? ACOEM – AMERICAN COLLEGE OF OCCUPATIONAL AND ENVIRONMENTAL MEDICINE UM KNOWLEDGEBASE.

? AHCPR – AGENCY FOR HEALTHCARE RESEARCH & QUALITY GUIDELINES.

? DWC – DIVISION OF WORKERS' COMPENSATION POLICIES OR GUIDELINES.

? EUROPEAN GUIDELINES FOR MANAGEMENT OF CHRONIC LOW BACK PAIN.

? INTERQUAL CRITERIA.

? MEDICAL JUDGEMENT, CLINICAL EXPERIENCE AND EXPERTISE IN ACCORDANCE WITH ACCEPTED MEDICAL STANDARDS.

? MERCY CENTER CONSENSUS CONFERENCE GUIDELINES.

x MILLIMAN CARE GUIDELINES.

Milliman Care Guidelines, Thirteenth Edition

x ODG – OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES.

Official Disability Guidelines (ODG), Treatment Index, 8th Edition (web), 2010, Low Back - Fusion, Bone Growth Stimulators.

? PRESSLEY REED, THE MEDICAL DISABILITY ADVISOR.

? TEXAS GUIDELINES FOR CHIROPRACTIC QUALITY ASSURANCE AND PRACTICE PARAMETERS.

? TEXAS TACADA GUIDELINES.

? TMF SCREENING CRITERIA MANUAL.

? PEER REVIEWED NATIONALLY ACCEPTED MEDICAL LITERATURE (PROVIDE A DESCRIPTION).

? OTHER EVIDENCE BASED, SCIENTIFICALLY VALID, OUTCOME FOCUSED GUIDELINES (PROVIDE A DESCRIPTION).