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Notice of Independent Review Decision

DATE OF REVIEW: 05/21/10

IRO CASE NO.:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE:

Item in dispute:

63030 Lumbar Laminectomy/Microdiscectomy @ L4-5

69990 Addtl Level

22851 Application of Spinal Prosthetic Device

62351 Implantation of Spinal Canal Catheter

00000 23 Hours Observation

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

Texas Board Certified Orthopedic Surgeon

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. 05/22/09, Chiropractic patient consultation
2. 05/26/09, Daily patient record
3. 05/29/09, Clinical note, Dr.
4. Xx/xx/xx, Employer's First Report of Injury or Illness
5. 06/12/09, Clinical note, Dr.
6. 06/29/09 and 07/06/09, Radiographs of the lumbar spine
7. 07/06/09, MRI of the lumbar spine
8. 07/20/09, Clinical note, Dr.
9. 08/11/09, Clinical note, Dr.
10. 08/21/09, Procedure report

11. 08/24/09, Clinical note, Dr.
12. 08/25/09, Clinical note, Dr.,
13. 09/10/09, Orthopedic consultation report, Dr.
14. 09/30/09, Clinical note, Dr.
15. 10/23/09, Procedure report
16. 11/03/09, Clinical note, Dr.
17. 11/04/09 through 12/04/09, Clinical note, Dr.
18. 12/22/09, Work capacity evaluation
19. 12/22/09, Mental health evaluation,
20. 01/08/10, Clinical note, Dr.
21. 01/28/10, Clinical note, Dr.
22. 01/28/10, Computerized muscle testing and range of motion report
23. 02/08/10, Clinical note, Dr.
24. 02/25/10, Designated Doctor Evaluation
25. 03/17/10, Clinical note, Dr.
26. 03/23/10, Electrodiagnostic study
27. 03/23/10, Chronic pain management program daily activity sheet
28. 03/23/10 through 03/26/10, Progress notes
29. 03/29/10, Computerized muscle testing and range of motion report
30. 03/29/10, Clinical note, Dr.
31. 03/30/10 through 04/07/10, Chronic pain management progress reports
32. 04/23/10, Clinical note, Dr.
33. 04/08/10 and 05/07/10, Utilization review report
34. 05/29/09 to 11/09/09, Chiropractic treatment reports
35. **Official Disability Guidelines**

PATIENT CLINICAL HISTORY (SUMMARY):

The employee sustained an injury on xx/xx/xx when she was handling some material and twisted which produced low back pain.

The employee was initially seen for chiropractic therapy on xx/xx/xx. Initial examination revealed restricted range of motion of the lumbar spine with positive straight leg raise noted bilaterally.

The employee was referred to Dr. on 05/29/09. The employee stated that she was stacking boxes in a freezer and noticed a sudden onset of low back pain. The employee stated that she was currently not working. Physical examination revealed tenderness to palpation of the lumbar spine with decreased range of motion. The employee performed heel and toe walking. Straight leg raise was positive bilaterally. No focal neurologic deficits were noted. The employee was recommended to continue oral medications and was referred for radiograph studies.

Radiographs of the lumbar spine dated 06/29/09 revealed lumbarization of the S1 vertebral body. Disc spaces were well maintained. There was minimal lumbar lordosis.

Repeat radiograph studies on 07/06/09 revealed mild hypertrophic changes at L4-L5. MRI of the lumbar spine performed 07/06/09 revealed a transitional vertebra was present. A designated partially sacralized L5 segment with a rudimentary L5-S1 disc

space was noted. Disc space narrowing was noted at L4-L5. There was a 7 mm disc protrusion and herniation at L4-L5 that impinged severely on the thecal sac. Narrowing of the medial aspect of the neural foramen bilaterally was noted.

Follow up with Dr. on 07/22/09 stated the employee had continued complaints of low back pain radiating to the right leg with associated right leg numbness and weakness. Physical examination was unchanged from prior examinations with Dr.. The employee was recommended for a pain management and orthopedic consultations.

The employee was seen by Dr. on 08/11/09, and he recommended epidural steroid injections at L3-L4 and L4-L5. On physical examination, Dr. found reported mild reduced motor strength bilaterally in the lower extremities. Sensation deficits were noted and reflexes were reduced to the right. The employee underwent a lumbar epidural steroid injection at L4-L5 on 08/21/09.

The employee was prescribed Darvocet N-100 by Dr. on 08/24/09. Other prescriptions at this visit included Ultram, Mobic, and Zanaflex.

The employee was seen by Dr. on 09/10/09 for orthopedic consultation. Physical examination at this visit revealed diminished patellar reflexes with paresthesias noted in the medial side of the right leg and the dorsum of the right foot. Decreased strength in the left extensor hallucis longus was noted. The employee was able to perform heel and toe walking. The employee was recommended for a second epidural steroid injection with Dr. .

This was performed on 10/23/09 at the L4-L5 level. The employee appeared to have no improvement with the injection in follow-up visits with Dr. through December of 2009.

A Functional Capacity Evaluation (FCE) on 12/22/09 revealed on testing the employee demonstrated a sedentary physical demand level and required a heavy physical demand level.

A psychological evaluation was performed by on 12/22/09. Testing demonstrated evidence of severe depression and mild anxiety. The employee was recommended for a comprehensive pain management program to decrease her level of subjective pain, decrease use in medication, and increase her function.

Follow up with Dr. on 01/28/10 stated the employee continued to have severe constant pain in the lumbar spine radiating to the right lower extremity. Physical examination revealed decreased range of motion of the lumbar spine with paresthesia in the right lower extremity. Reflexes were decreased bilaterally. The employee was

recommended for electrodiagnostic studies and encouraged to using a home exercise program.

A Designated Doctor Evaluation performed on 02/25/10 stated the employee's current medications included Naprosyn. The employee had current complaints of pain in the right lumbar spine with associated numbness in the right lower extremity. Physical examination revealed the employee demonstrated a poor gait and could not perform heel and toe walking well. There was tenderness to palpation present in the lumbar spine in the paraspinal musculature. Straight leg raise was positive at 24 degrees to the right and 30 degrees to the left. Reflexes were full and symmetric. Range of motion of the lumbar spine was restricted. Moderate weakness in the lower extremities bilaterally was noted. No positive Waddell's signs were noted, and the employee was not placed at Maximum Medical Improvement (MMI) at this visit.

Electrodiagnostic study performed on 03/23/10 to the lower extremities was normal.

It appeared the employee began chronic pain management on 03/23/10. Chronic pain management continued through the end of March.

Follow up with Dr. on 03/29/10 stated the employee's symptoms had not changed and physical examination was unchanged from prior examinations. The employee was recommended for lumbar laminectomy and discectomy at L4-L5. The employee continued chronic pain management through 04/07/10.

A utilization review on 04/08/10 stated that the requested lumbar laminectomy and microdiscectomy at L4-L5 was not recommended, as the employee was not undergoing chronic pain management, and there was significant psychobehavioral and motivational issues.

Follow up with Dr. on 04/23/10 stated the employee's symptomatology had not changed. Physical examination revealed decreased range of motion of the lumbar spine. No focal neurologic deficits were noted. Positive straight leg raise was present. The employee was continued on medications to include Cymbalta and Lidoderm patches.

A second utilization review for lumbar laminectomy and microdiscectomy at the L4-L5 dated 05/07/10 stated that the request was not consistent with Official Disability Guideline criteria.

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

The employee has had a long course of clinical care due to her complaints of low back pain with radiating right leg pain; however, there are several inconsistencies and physical examinations from this employee. There are multiple physical examinations by Dr. that reveal no significant neurologic deficits, while other examinations reveal evidence of significant weakness in the lower extremities bilaterally. Although the MRI study reveals a disc herniation at L4-L5, there is unclear evidence of concordant findings on physical examination. Electrodiagnostic studies were reported to be normal. Additionally, the employee underwent psychological evaluation due to complaints of severe depression and anxiety and was recommended for chronic pain management. There has been no subsequent psychological evaluations to determine if the employee has the clearance for surgery. It is also unclear why at this point in time surgery has been requested after the employee has undergone tertiary level care since this chronic pain management program. Given the clinical documentation submitted for review, the requested L4-L5 laminectomy/microdiscectomy is not consistent with the ***Official Disability Guidelines*** and, as such, the prior denials are upheld.

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

1. ***Official Disability Guidelines***, Low Back Chapter, online version