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Notice of Independent Review Decision

DATE OF REVIEW: FEBRUARY 19, 2010

IRO CASE #:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

L3-L4 and L4-L5 lumbar laminectomy, discectomy, fluoroscopic CPT codes 63030, 63035, 77003

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

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.

INFORMATION PROVIDED TO THE IRO FOR REVIEW

Texas Department of Insurance

- Utilization Review (11/30/09 – 01/14/10)

Coventry

- Office Notes (12/28/06 - 12/17/09)
- Therapy (01/08/07 - 07/20/09)
- Operative Notes (01/08/07)
- Diagnostics (02/13/08 - 01/09/09)
- Reviews (09/15/09)
- PLN 11 (09/28/09)
- Utilization Review (11/30/09)

ODG Criteria have been utilized for denials.

PATIENT CLINICAL HISTORY [SUMMARY]:

The patient is an employee who felt a pop in his lower back and developed pain on picking up a box and putting it on the shelf on xx/xx/xx.

Following the injury, the patient presented to ETMC and emergency room (ER) and was prescribed Lortab and Soma. D.O., evaluated him for low back pain radiating to the left lower extremity. History was remarkable for cervical surgery. Examination revealed significantly decreased lumbar range of motion (ROM), tenderness over L3-L4, L4-L5 and L5-S1 articulations, left more than right, decreased L5 myotome strength and positive straight leg raise (SLR), left more than right. X-rays of the lumbar spine were unremarkable. Dr. assessed probable lumbar discogenic disease with radiculopathy and continued Lortab and Soma. The patient was treated with trigger point injections (TPIs) in the bilateral erector spinae and latissimus dorsi muscles, 24 sessions of physical therapy (PT) followed by 13 sessions of work hardening program (WHP).

In February 2008, x-rays of the lumbar spine revealed slight disc deformation at L5-S1. Dr. refilled Norco, Flexeril, Valium and Naprelan. In November, Dr. evaluated the patient for right leg and knee weakness with giving way. He added Neurontin to the medications.

In January 2009, magnetic resonance imaging (MRI) of the lumbar spine revealed a disc desiccation at L3-L4 with moderate left posterolateral disc protrusion extending into the foramen with neural foraminal encroachment, disc desiccation at L4-L5 with diffuse annular disc protrusion and focal left posterolateral disc protrusion with intraforaminal extension and nerve root displacement and large posterocentral disc protrusion at L5-S1.

Dr. performed a caudal epidural steroid injection (ESI) with 50-60% reduction of radicular pain. The patient was referred to a neurosurgeon.

In July 2009, functional capacity evaluation (FCE) was performed in which the patient did not meet job required physical demand level (PDL). It was recommended that he undergo surgery followed by acute care/therapy.

M.D., an orthopedic surgeon, noted muscle guarding, diminished ROM of the lumbar spine and positive SLR, foraminal compression bilaterally and femoral nerve stretch test on the left. There was -4/5 strength of the left quadriceps, 4/5 strength of left peroneus and anterior tibialis, atrophy of the left thigh and left calf, numbness in the L4 and L5 nerve distribution on the left, postoperative lower lumbar spine healed surgical incision. Dr. assessed L4-L5 left-sided disc herniations and status post lumbar spine surgery. He suspected a L4-L5 laminectomy on the left with residual L5-S1 posterior disc protrusion. The patient was placed off work and was recommended surgery.

M.D., a designated doctor, noted the following treatment history: *In November 2006, x-rays of the lumbar spine were obtained, which revealed mild left convex scoliosis. X-rays of the left hip were unremarkable. In February 2007, MRI of the lumbar spine revealed a moderate posterior left paracentral disc protrusion at L4-L5 with a herniated disc fragment extending into the left neural foramen as well as superiorly posterior to the inferior aspect of L5 vertebral body. There was displacement of the existing nerve root at the L4-L5 level. X-rays of the lumbar spine were unremarkable. Electromyography/nerve conduction velocity*

(EMG/NCV) was indicative of proximal nerve lesion at L4. M.D., a neurosurgeon, assessed L4-L5 herniation with L5 radiculopathy. X-rays of the lumbar spine revealed mild decrease in the anterior vertebral body height at T12 and L1 possibly chronic than acute. In May 2007, Dr. performed left L4-L5 hemilaminectomy, foraminotomy, and discectomy. In January 2008, in an FCE, the patient was noted to be performing in the medium PDL. In January 2008, Dr. Rodgers assigned 10% whole person impairment (WPI) rating. Dr. opined that all the disc level pathologies were related to the injury or treatment. L3-L4 and L5-S1 were in all medical probability related to the injury or surgery for L4-L5 injury.

Per PLN 11 dated September 20, 2009, the carrier disputed hypertension, cervical, and lumbar discogenic disease, disc desiccation at L3-L4 with neural foraminal encroachment and disc desiccation at L4-L5.

On November 18, 2009, Dr. noted worsening of ROM of the lumbar spine and positive SLR. The patient was maintained off work and was recommended surgery.

On November 30, 2009, M.D., performed utilization review and denied the request for lumbar laminectomy and discectomy at L3-L4 and L4-L5 with the following rationale: *The request for lumbar laminectomy and discectomy at L3-L4 and L4-L5 level is not recommended as medically necessary. Although there are some indications to suggest surgery may be necessary for this patient, there is no clinical documentation regarding any prior conservative care for this patient. Official Disability Guidelines (ODG) recommend that patients be refractory to all conservative care methods before considering surgery to include laminectomy and discectomy. Review of the submitted clinical documentation revealed that there is no indication the patient was referred to PT or had any significant improvements with PT. Without additional clinical documentation regarding prior conservative care to include PT for this patient, medical necessity is not established at this time.*

Dr. resubmitted the request for surgery.

On January 14, 2010, M.D., denied the appeal for lumbar laminectomy and discectomy at L3-L4 and L5 with the following rationale: *As per medical records, patient complains of the lower back pain with radiation to the left lower extremity. On physical examination, he has decreased ROM of the lumbar spine. There is tenderness to palpation over the L3-S1 articulations and positive SLR. Clinical records indicated that the patient has been treated conservatively with oral medications, ESIs, PT. The PT progress notes were indicating non-improvement. Pain medications given were included for review. However, the record does not indicate a preoperative psychiatric evaluation has been performed. A psychological evaluation must be initially done and indicate the patient's realistic expectations for the procedure. Furthermore, the clinical information did not provide objective documentation of the patient's clinical and functional response from the mentioned injections that includes sustained pain relief, increased performance in activities of daily living, and reduction in*

medication use. Hence the medical necessity of this requested service has not been substantiated. Additional relevant information from a peer-to-peer contact is needed to substantiate the medical necessity for this request.”

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

I have reviewed all the information supplied to me online including office notes, therapy, operative notes on previous surgery, diagnostic studies, reviews, and utilization reviews provided by two other physicians. The requested service was a lumbar laminectomy at L3-L4 and L4-L5 and the codes are 63030, 63035 and 77003.

The patient is a 49-year-old warehouse worker who is employed by George Wholesale. He felt a pop in his back in November 24, 2006. He received treatment over a period of time and subsequently came to surgery for L4-L5. He has been treated conservatively since that time with bedrest, physical therapy, epidural steroid injections and trigger point injections. However, he has not had a psychological review.

In reviewing this case and the reviews of the other reviewing doctors, I agree with their previous adverse determination, and I would uphold the denial.

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

- ODG- OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES