

Notice of Independent Review Decision

**REVIEWER'S REPORT**

**DATE OF REVIEW:** 05/12/10

**IRO CASE #:**

**DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE:**

Outpatient intrathecal pump implant

**DESCRIPTION OF QUALIFICATIONS OF REVIEWER:**

D.O, duly licensed physician in the State of Texas, fellowship-trained in Pain Management, Board Certified in Anesthesiology with Certificate of Added Qualifications in Pain Medicine, with over 23 years of active and current experience in the practice of Pain Management

**REVIEW OUTCOME:**

Upon independent review, I find that the previous adverse determination or determinations should be:

- Upheld (Agree)
- Overturned (Disagree)
- Partially Overturned (Agree in part/Disagree in part)

<i>Primary Diagnosis Code</i>	<i>Service Being Denied</i>	<i>Billing Modifier</i>	<i>Type of Review</i>	<i>Units</i>	<i>Date(s) of Service</i>	<i>Amount Billed</i>	<i>Date of Injury</i>	<i>DWC Claim #</i>	<i>Upheld Overturn</i>
724.2	63650		Prosp.				06/23/06		Upheld
724.2	62362		Prosp.				06/23/06		Upheld
724.2	62368		Prosp.				06/23/06		Upheld
724.2	95991		Prosp.				06/23/06		Upheld
724.2	77002		Prosp.				06/23/06		Upheld
724.2	00630		Prosp.				06/23/06		Upheld

**INFORMATION PROVIDED FOR REVIEW:**

1. Certification of independence of the reviewer and TDI case assignment.
2. TDI case assignment.
3. Letters of denial 02/22/10 & 03/17/10, including criteria used in the denial.
4. Appeal letter and request for medical dispute resolution.
5. Treating doctor's treatment documentation 07/03/09 – 04/15/10.
6. Medication log.
7. Operative report 06/04/09.

**INJURED EMPLOYEE CLINICAL HISTORY (Summary):**

This claimant was injured on x/xx/xx, sustaining some type of non-specified back injury. She had a relevant clinical history including percutaneous lumbar laminectomy in 1988, some eighteen years prior to this work injury. According to the progress note on 04/03/09, the claimant had previously undergone two lumbar epidural steroid injections in April and June 2007 with no relief, bilateral L4/L5 and L5/S1 facet joint injections on 09/11/07 with only 20% relief, and a spinal cord stimulator trial on 10/23/08 with no relief. The claimant had undergone a lumbar MRI scan on 09/11/06, some three months after the work event, demonstrating mild central spinal canal stenosis from L1/L2 through L4/L5 with mild spondylosis and facet joint arthritis. A right knee MRI scan on that same date demonstrated a medial meniscal tear, mild osteoarthritis, and degenerative lateral meniscal findings. A repeat lumbar MRI scan on 10/24/07 demonstrated L1/L2 disc bulge, L2/L3 moderate disc bulge, L3/L4 annular tear with mild central herniation or prominent disc bulge and facet arthropathy, L4/L5 minimal disc bulge, and normal L5/S1 level. The claimant's complaint of low back pain radiating into both legs in a "nondermatomal pattern" and right knee pain was documented. The pain level was 6/10. No physical examination was documented. A "pump trial" was recommended and the claimant's medications, including Methadone 10 mg t.i.d., Ambien 10 mg h.s., Lyrica 150 mg t.i.d., Lortab 10 mg b.i.d., and Paxil 20 mg daily were refilled.

On 05/05/09 the same pain level was documented. The treating doctor again documented no physical examination and recommended the claimant undergo three weekly intrathecal pump trials.

On 06/04/09 the second of those three intrathecal trials was apparently performed. The treating doctor indicated the claimant had previously had an injection of 0.75 mg of Duramorph the previous week, reporting only a 20% pain reduction. On 06/04/09 he indicated that he would perform a trial injection of 1.5 mg of intrathecal Duramorph. However, his operative note clearly indicates that he did not inject 1.5 mg. but rather 0.75 mg Duramorph again.

One week later the claimant underwent a third intrathecal Duramorph injection. It was noted that the claimant obtained only 20% relief with the first injection and only 50% relief with the second. Therefore, the treating doctor performed a 2 mg morphine intrathecal injection.

The claimant followed up three weeks later on 07/03/09, there was no mention of any benefit from the 06/11/09 2 mg intrathecal trial. The P.A. noted that the 06/04/09 intrathecal trial of 1.5 mg (although the operative note clearly documented only 0.75 mg) was "most effective with the least side effects" but did not provide any numerical quantification of pain relief. The P.A. stopped the claimant's Methadone and started her on MS-Contin and continued all of the same medications. She documented that the claimant "liked second intrathecal trial which was Duramorph 1.5 mg" (although the operative note indicated 0.75 mg) but was reluctant to have pump implantation due to the fact that she was taking care of her ailing mother.

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On 07/31/09 the P.A. again followed up with the claimant, documenting the same 6/10 pain level and the same 50%-60% relief of pain with medication. She documented no physical examination and switched the claimant back from MS-Contin to Methadone 10 mg t.i.d. She again reiterated that the claimant "felt second intrathecal trial helped the most" but that she could not proceed with pump implantation for the reasons previously discussed.

On 08/28/09 the P.A. again followed up with the claimant, documenting the same 6/10 pain level and 50%-60% relief with medication. She again failed to document any physical examination. She diagnosed the claimant with "post laminectomy syndrome, lumbar region," despite the fact that the claimant had only undergone percutaneous lumbar discectomy some 21 years previously. She again refilled the claimant's medications.

On 09/25/09 a nurse practitioner at the treating doctor's practice followed up with the claimant, documenting the same 6/10 pain level. She, like the previous P.A., failed to document physical examination and merely continued all the same medications.

On 10/26/09 the P.A. followed up with the claimant, documenting the same 6/10 pain level and no examination, merely refilling medications again.

On 11/24/09 the P.A. again followed up with the claimant, documenting the same 6/10 pain level.

On 12/22/09 the P.A. again followed up with the claimant, documenting the same 6/10 pain level.

On 01/20/10 the P.A. again followed up with the claimant, documenting the same 6/10 pain level and no physical examination documented. She again diagnosed the claimant with post laminectomy syndrome and continued all the same medications.

On 02/17/10 the treating doctor followed up with the claimant, documenting the same pain level of 6/10. He also failed to document any physical examination. He diagnosed the claimant with "post surgical scar fibrosis," despite the fact that there was no objective evidence of such a condition on any imaging finding. He continued the claimant on Pristiq, Lortab, Lyrica, and Methadone. He stated that the claimant had a successful intrathecal trial with "up to 80% relief," despite having previously documented the claimant obtaining no more than 50% relief. He now recommended proceeding with intrathecal pump implantation.

On 03/22/10 the initial physician reviewer recommended non-authorization of the request, citing the lack of any objective documentation or functional improvement or report of psychologic evaluation.

On 03/09/10 the treating doctor wrote a letter of appeal requesting reconsideration, stating the claimant had "greater than 75% relief with 1.5 mg of Duramorph," despite the fact that his own operative note indicated the claimant obtaining no such degree of relief. He also indicated the claimant was using strong opioids with good relief but "intolerable side effects," despite there being no documentation in any of his or his employees' progress notes of such side effects.

On 03/18/10, documented follow up stated the same 6/10 pain level and no exam. The examiner persisted in the diagnosis of "post surgical scar fibrosis." She indicated the claimant was still uncertain as to when, if ever, she could have the pump implanted due to her taking care of her mother, and merely continued all the same medication.

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A second physician reviewer recommended non-authorization of the requested implantation on 03/17/10, citing the lack of any objective documentation of improvement of the claimant's clinical and functional status and the lack of any report of psychologic evaluation.

On 04/07/10 the treating doctor wrote another dispute letter. He stated that since "Workers' Compensation gave approval for a psychologic evaluation for possible pump trial" and the "fact" of the claimant obtaining "greater than 80% relief" from the Duramorph trial, she should be allowed to proceed with implantation. However, he did not provide any objective documentation of the psychologic report nor any explanation as to why he was contradicting his own previous reports of the claimant's alleged intrathecal trial benefit. He also incorrectly diagnosed the claimant's intractable pain as being secondary to a "diseased state" and "documented pathology."

On 04/15/10 the P.A. again followed up with the claimant, documenting the same 6/10 pain level, the same lack of physical examination, the same incorrect diagnosis of "post laminectomy syndrome, lumbar region," and the same plan for continued Lortab and Methadone. She also documented that the claimant "does not want pump implant at this time because of taking care of her mother" and that the claimant was "feeling better now that diabetes and hypertension are under control."

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

Perhaps the most important reason for upholding the recommended non-authorizations for this procedure is the fact that the claimant, herself, does not wish to have the pump implanted and reports that she is feeling better since her unrelated comorbid medical conditions of hypertension and diabetes have been brought under control. Additionally, despite Dr. Potter's documentation of "greater than 80% relief" from the 1.5 mg Duramorph trial, his own records at the time of the trial clearly indicate the claimant obtaining no more than 50% relief. Additionally, the claimant reported greater relief with the alleged 1.5 mg trial (although the operative note clearly indicated only 0.75 mg injection of Duramorph) than with the 2.0 mg Duramorph trial. Therefore, there is no possible way that the claimant could have ever obtained 80% relief of pain since the alleged 1.5 mg Duramorph trial (the second one) produced only 50%, which the claimant stated was the best relief. Therefore, the only logical conclusion is that the 2.0 mg trial produced less than 50% relief.

Additionally, although the treating doctor asserts that the claimant had a psychologic evaluation, no report of such evaluation has been provided nor any report of appropriate psychologic testing such as MMPI-2. Finally, the treating doctor and his employees continued to document the claimant's diagnosis as being either post laminectomy syndrome or post surgical fibrotic scar when, in fact, there is no objective evidence on either lumbar MRI scan of any epidural fibrosis, nor does the claimant's percutaneous discectomy in 1988 have anything whatsoever to do with her current clinical situation. In fact, the most recent MRI scan in 2007 demonstrated nothing more than mild to moderate global degenerative changes in the claimant's lumbar spine, consistent solely with age and ordinary disease of life.

Therefore, for all of the reasons above, most importantly the claimant's own statement of not wishing to proceed with the trial, there is no medical reason or necessity for permanent implantation of an intrathecal pump system. The recommendations of the two previous physician advisers are, therefore, upheld. This claimant does not meet ODG criteria for permanent implantation of an intrathecal pump and she, herself, does not wish to have a pump implanted.

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

- ACOEM-American College of Occupational & 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 judgment, clinical experience and expertise in accordance with accepted medical standards.
  - Mercy Center Consensus Conference Guidelines.
  - Milliman Care Guidelines.
  - ODG-Official Disability Guidelines & Treatment Guidelines.
  - Pressley Reed, The Medical Disability Advisor.
  - Texas Guidelines for Chiropractic Quality Assurance & Practice Parameters.
  - Texas TACADA Guidelines.
  - TMF Screening Criteria Manual.
  - Peer reviewed national accepted medical literature (provide a description).
  - Other evidence-based, scientifically valid, outcome-focused guidelines (provide a description.)
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