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Notice of Independent Review Decision

DATE OF REVIEW: April 16, 2010

IRO CASE #:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

Decompression, laminectomy discectomy, posterior lumbar interbody fusion, internal fixation with cages, internal fixation with screws and rods and lateral fusion to include treatment codes 63030, 63035, 22630, 22632, 22851, 22842 and 22612.

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

- Diagnostics (05/05/06 - 10/08/09)
- Reviews (08/15/06 – 10/01/07)
- Office visits (06/19/09 - 11/18/09)
- Utilization reviews (01/13/10 – 04/06/10)

TDI

- Utilization reviews (01/13/10 – 04/06/10)

ODG have been utilized for the denials.

PATIENT CLINICAL HISTORY [SUMMARY]:

The patient is a male who on xx/xx/xx, was taking out trash cans with his manager. As they lifted a trash can to throw away and empty them, the patient slipped on a piece of melon and fell directly on to his buttocks.

Following the injury, the patient was evaluated at Medical Center where x-rays of the dorsal and lumbar spine were unremarkable. Magnetic resonance imaging

(MRI) of the lumbar spine revealed central and right paramedian herniated disc at L4-L5 and Schmorl's nodes at the superior plate of L4 and inferior plate of L3. The patient was treated with tramadol for constant pain in the lower back with heaviness and pain down the right leg and was recommended surgery.

In a medical evaluation, M.D., noted spasm in the paraspinal region, decreased lumbar range of motion (ROM) and decreased sensation to pinprick in the right L4 and S1 distribution. He diagnosed possible right lateralized L4-L5 disc herniation and ordered electromyography/nerve conduction velocity (EMG/NCV) study to rule out radiculopathy. He obtained a functional capacity evaluation (FCE) and stated the patient should return to work light duty with restrictions. He recommended enrolling in a physical therapy (PT) program and possible epidural steroid injections (ESIs) if EMG/NCV study was positive. In his opinion, the treatment with tramadol was reasonable but was below recommended protocols.

EMG/NCV study of the lower extremities was unremarkable.

In October 2007, M.D., noted that Dr., a designated doctor, had assessed maximum medical improvement (MMI) as of January 19, 2007, with 0% whole person impairment (WPI) rating. Dr. disagreed with it and recommended lumbar ESIs. He stated the patient's condition had worsened over time. In xx/xx/xx, he had noted 5- right extensor hallucis longus (EHL) weakness and in June 2007, he had noted 5- weakness in the right peroneus longus. EMG/NCV study performed in October 2007 was positive for L5 radiculopathy. Therefore, the patient was not at MMI and needed lumbar ESIs.

In June 2009, M.D., a neurosurgeon, noted recently, the patient had been declared disabled by SSA. He complained of low back pain radiating to the lower extremities, more to the right associated with numbness and tingling. Examination revealed decreased ROM of the lumbar spine with spasm, decreased sensation in the L5 distribution bilaterally and positive straight leg raise (SLR) on the right. Dr. diagnosed lumbosacral radiculopathy with herniated disc at L4-L5 and recommended conservative treatment with PT, analgesics, ESIs and ordered further diagnostic studies.

Repeat EMG/NCV study showed right L5 chronic radiculopathy with mild chronic neurogenic changes without acute process or active denervation. MRI of the lumbar spine revealed posterior central, right paracentral and posterolateral disc protrusion at L4-L5 measuring 5.1 mm with thecal sac impingement and right neural canal narrowing; left paracentral and posterolateral disc protrusion measuring 3.72 mm with the left neural canal narrowing at L5-S1 and posterior central disc protrusion measuring 2.9 mm at L2-L3.

In November 2009, Dr. noted the patient had no improvement with conservative treatment consisting of ESIs x2, PT, analgesics and chronic pain management. He recommended decompressive laminectomy, discectomy, posterior lumbar interbody fusion, internal fixation with cages and screw, rods and lateral fusion at L4-L5 and L5-S1.

Per utilization review dated January 13, 2010, request for decompression, laminectomy discectomy, posterior lumbar interbody fusion, internal fixation with cages, internal fixation with screws and rods and lateral fusion to include

treatment codes 63030, 63035, 22630, 22632, 22851, 22842, and 22612 with two day inpatient stay was denied with the following rationale: *“This is a male with a date of injury xx/xx/xx, when he slipped and fell while taking out the trash. He complains of low back pain radiating down both lower extremities, right greater than left. He has had PT, ESI and medications. The claimant had been seeing this provider for several months. In June of 2009, the provider recommended a discectomy at L4-L5. A few months later, in November 2009, the provider is now recommending a lumbar fusion at L4-L5 and L5-S1. The rationale for this is not provided. Further insight is needed as to why a fusion is now being recommended, instead of a simple decompression, and why, now, surgery is needed at two levels (L4-L5 and L5-S1) instead of one (L5-S1). Secondly, there has not been any recent psychosocial screen with confounding issues addressed, as recommended by ODG. For these reasons, the surgery is not medically necessary. Since the surgery is not medically necessary therefore, the request for two day inpatient stay is not applicable.”*

Per utilization review dated April 6, 2010, an appeal for decompression, laminectomy discectomy, posterior lumbar interbody fusion, internal fixation with cages, internal fixation with screws and rods and lateral fusion to include treatment codes 63030, 63035, 22630, 22632, 22851 and 22842 was denied with the following rationale: *“I have not been able to determine the medical necessity of this request per evidence-based guidelines. According to the Official Disability Guidelines, “pre-operative clinical surgical indications for spinal fusion should include all of the following: (1) All pain generators are identified and treated; & (2) All physical medicine and manual therapy interventions are completed; & (3) X-rays demonstrating spinal instability and/or myelogram, CT-myelogram, or discography & MRI demonstrating disc pathology; & (4) Spine pathology limited to two levels; & (5) Psychosocial screen with confounding issues addressed. (6) For any potential fusion surgery, it is recommended that the injured worker refrain from smoking for at least six weeks prior to surgery and during the period of fusion healing.” There is no correlation of the patient's history, exam and studies in this case. There is no thorough detailed history of this patients' pain. There is no detail regarding the frequency of the pain or the exact distribution. Therefore, it cannot be determined if the patient's pain is consistent with a compression of a particular nerve root because there is no detail regarding his pain complaints and also the patient's physical exam changes. Initially, Dr. stated on June 19, 2009, that the patient had decreased sensation in the L5 distribution bilaterally. He later stated that the patient had decreased sensation in the L4 distribution. He later stated the patient had decreased sensation in the L5-S1 distributions bilaterally. There are inconsistencies regarding any sensory deficit. In addition, there are no other deficits to pin point any nerve root compression clinically. Also, the electrical studies do not correlate with the patient's exam. Again, the sensory loss changes from exam to exam and the electrical studies showed chronic right L5 changes. Therefore, as discussed above, there is insufficient correlation of the patient's history, exam and MRI findings to warrant surgery. For the above cited reasons, the recommendation is for adverse determination.”*

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

I HAVE REVIEWED THE MEDICAL RECORDS PROVIDED, THE DETERMINATIONS MADE BY THE PREVIOUS REVIEWERS, AND THE OFFICIAL DISABILITY GUIDELINES – LOW BACK CHAPTER AND I AGREE WITH THE PREVIOUS REVIEWERS AND UPHOLD THEIR DETERMINATIONS.

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

- ODG- OFFICIAL DISABILITY GUIDELINES & TREATMENT GUIDELINES – LOW BACK CHAPTER**