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Notice of Independent Review Decision

DATE OF REVIEW: 10/28/2010

IRO CASE #:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

The item in dispute is the prospective medical necessity of a lumbar ESI at L4-5 Right > Left (62311, 64483, 64484, 77003).

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

The reviewer is a Medical Doctor who is board certified in Physical Medicine and Rehabilitation. The reviewer has been practicing for greater than 10 years.

REVIEW OUTCOME

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

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

The reviewer agrees with the previous adverse determination regarding the prospective medical necessity of a lumbar ESI at L4-5 Right > Left (62311, 64483, 64484, 77003).

INFORMATION PROVIDED TO THE IRO FOR REVIEW

Records were received and reviewed from the following parties:
Consultant Associates, and Insurance

These records consist of the following (duplicate records are only listed from one source): Records reviewed: Denial Letters – 7/28/10 & 8/18/10, Pre-auth Advisor Review Form – 8/12/10; decision email to– 7/28/10; Consultant Associates Pre-auth Request – 7/20/10, Appeal Request – 8/11/10, Office Notes – 7/16/10-7/30/10, History & Physical Exam report – 1/5/07; Patient Quickview

print-out – undated; Imaging Ctr Imaging Report – 12/29/06; MD Operative Report – 5/31/07 & 9/14/07; and ODG – Low Back – ESI Reference.

Records reviewed from Consultant Associates: Office Notes – 4/12/07-9/1/10.

Records reviewed from Insurance: DWC1 – 11/8/06; Injury Center Patient Re-Eval – 7/9/07-7/16/10, Initial Eval – 7/30/08, Patient Information – 3/5/07 & 11/1/07, Daily Progress Notes – 1/16/07-4/16/10, Personal Program Notes – 6/19/07, Assignment of Benefits – 12/6/06, Initial Consultation – 12/6/06; Various DWC73s; Pre-auth Review Summary – 1/10/07-3/24/10, Approval Letter – 11/20/06; Modern Spine Office Note – 11/3/09; MD Review – 5/8/07, 7/6/07, 10/20/08, & 12/23/09; letter – 12/9/09; Denial Letter – 11/12/09, Pre-auth Approval Letter – 3/27/09, 3/31/09, & 7/8/09, Case Summary Report – 7/8/09, Withdrawal letter – 3/31/09, ; MD Office Note – 8/14/09; Pain Consultant letter – 8/13/09, Pre-auth Request – 8/21/07; Pain & Rehab Solutions Pre-auth Request – 6/15/10 & 7/3/09, Outpatient Therapy Script – 6/11/09, Aquatic Therapy Script - Undated; Summit Diagnostics I NCV/EMG report – 1/24/07 & 6/8/09; MD Post Myelogram Cervical Spine CT – 3/28/08 & 5/7/09; MD Operative Report – 5/7/09; MD MRI report – 3/31/09; DWC69 – 3/5/07, 6/12/07, 11/1/07, 7/8/08, & 3/25/09; Memorial Therapeutic Products Letters of Medical Necessity – undated, TENS Script – 11/18/09, EMS Script – 12/27/06, 2/27/07, & 6/5/08, Fitting & Patient Acceptance Form – 12/27/06, Script and Letter of Medical Necessity – 12/27/06 & 2/1/07; Impairment & MMI Determination – 3/25/09; MD Ortho Consult – 3/18/09; DO DDE Clarification letter – 1/2/09 & 1/10/09, DDE for MMI/IR report – 6/12/07; TDI letter to DO – 6/4/08, DDE report – 8/23/07, 11/30/07, & 7/18/08; IRO Report – 8/15/07; Individual Progress Note – 7/9/07-8/21/07, Progress Notes – 10/21/08-1/8/09, Initial Interview – 6/14/07; Operative Report & Surgery Notes – 9/14/07; Offer of Employment letter – 11/21/06 & 1/5/07; Aquatherapy Exercise notes – 7/9/10-7/14/10; Test Order – 2/28/07, 9/6/07, 9/20/07, 11/7/08, 3/29/10, & 4/22/10, CMT and ROM report – 9/6/07, 9/20/07, 11/7/08, 3/29/10, & 4/22/10, FCE Report – 2/28/07; MMT and ROM report – 11/3/09, CMT and ROM report – 3/18/09; MD MRI report – 3/27/09; MD Follow-up Exam – 2/14/08-8/7/08, Operative Report – 4/23/06-4/23/08, Office Visit Note – 5/8/08, Initial Exam report – 10/30/07, Cervical-Stim Order Form - undated; MD X-ray & MRI reports – 7/29/08; MRI X-ray report – 6/9/08; IRO report – 10/26/07; email to– 10/31/07; MD Office Note – 4/22/08; Imaging Report – 12/29/06; DWC53 – 12/8/06; OHP Progress Note – 11/27/06; Pre-auth request – 4/18/07, Explanation of Diagnostic Findings – 2/28/07, and Operative Report – 5/31/07 & 7/5/07.

A copy of the ODG was provided by the Carrier/URA for this review.

PATIENT CLINICAL HISTORY [SUMMARY]:

The patient was injured on xx/xx/xx while employed with of Medicine as a medical. She reported tripping and falling over some boxes, injuring the neck and lower back. She was evaluated by Dr. and received primary treatment.

Dr. referred the patient to Dr., who saw her for consultation January 5, 2007. Dr. diagnosed cervical disc herniation with cervical radiculitis, low back pain with lumbar radiculitis, and myofascial pain of the paracervical muscle beds.

According to the records submitted for review, the cervical spine was treated with epidural steroid injections in 2007 and anterior cervical discectomy with fusion in 2008.

On September 14, 2007 Dr. performed lumbar epidurography and lumbar epidural steroid injection with Marcaine and Depo-Medrol. Subsequent records document improvement in response to the epidural steroid injection. On the outpatient follow-up visit January 4, 2008 the patient reported that she was participating in a program for reeducation. She still had issues with pain but it was controlled with her current medication management. "Her only problem is she is experiencing anxiety and depression with her chronic pain state". Dr. prescribed Cymbalta and refilled the prescription for hydrocodone.

On follow-up visit April 18, 2008, the pain problem was related to the cervical spine. On the follow-up visit September 5, 2008, straight leg raising was negative bilaterally and there were "no overt neurologic exam findings in her lower extremities". On December 10, 2008 the patient reported progressive increase in pain radiating from the back to the lower extremities, no frank neurologic changes were demonstrated.

In 2009 medications were adjusted as needed on the scheduled follow-up visits.

On January 20, 2010 the patient reported that she was doing fair. Medications were changed. On March 12, 2010 there was a new complaint of thoracic spasm. Dr. requested an MRI.

In March and April 2010 the patient had physical therapy at the Injury Center of as directed by Dr. . The clinical notes submitted for review are from March 19, 2010 through April 16, 2010, wherein the patient received therapeutic exercises and aquatherapy exercises. The patient reported some progress during the therapy program but complained of pain radiating into the right leg and groin. Computerized muscle testing was done to monitor status and progress

Dr. saw the patient for re-evaluation on July 16, 2010. With respect to the lower back the patient reported pain radiating to the groin and legs. The patient had been undergoing aquatic therapy and stated that there had been some additional soreness but that she felt stronger. She stated that Dr. had recommended an injection and that she wanted to do it due to the severity of the pain. On the

physical examination, straight leg raising was positive at 55 degrees on the right and 70 degrees on the left. The Kemp test was positive on the right side. The right Achilles reflex was decreased compared with the left. Dr. recommended that the patient continue the aquatic therapy program and undergo the recommended injection.

On July 16, 2010 Dr. saw the patient for follow-up. The patient complained of the return of her low back pain over the last 3 to 4 months. Dr. noted that in September 2007 he had performed an epidural steroid injection which "basically eliminated her radicular component of pain and she was able to function with medications only". Physical examination revealed paraspinous tenderness to palpation with bilateral positive tension sign demonstrated left greater than right along with dysenteric sensory deprivation in the L5 distribution.

On July 28, 2010 the requested procedures were noncertified. Dr. submitted a letter of appeal July 30, asserting that the patient had reported 60-70 percent improvement after the lumbar ESI on September 14, 2007 and was doing very well from a low back standpoint on a follow-up visit January 4, 2008. However, on July 16, 2010 the patient had recurrence of her lower back pain with radicular findings. Specifically, Dr. referred to the documented "L5 sensory deficit from a dermatomal distribution of pinprick and temperature sensation and had a positive straight leg raise"... Dr. referred to prior imaging studies of the lumbar spine which showed disc protrusion at L4-L5 and at L5-S1 with bilateral foraminal stenosis.

On September 1, 2010 Dr. saw the patient for follow-up, noting that the request for epidural steroid injection had been denied. On examination Dr. noted "a positive tension sign to 45 degrees along with a sensory deprivation in the L5 distribution".

DIAGNOSTIC STUDIES:

- MRI of the lumbar spine December 29, 2006 was reported to show desiccation of the disc material at T12-L1, with compression deformity involving the superior aspect of the L1 vertebral body. At the L4-L5 level there was a 1.5 millimeter broad-based disc bulge with mild lateral recess stenosis bilaterally. At the L5-S1 level there was desiccation of the disc material associated with 1.5 millimeter central disc bulge and mild lateral recess stenosis bilaterally.

MRI of the lumbar spine without contrast March 27, 2009 was reported to show a 30 percent compression deformity of the T12 vertebral body on the right with some flattening of the right side of the lower cord and right greater than left sided foraminal encroachment. The vertebral compression demonstrated some increased T2 signal. At the L2-L3 level there was a broad-based annular bulge without disc herniation, stenosis or nerve root compromise. At the L4-L5 level there was a small disc protrusion with mild bilateral facet arthropathy and some

mild bilateral foraminal encroachment. At the L5-S1 level there was bilateral facet arthropathy and some mild bilateral foraminal narrowing.

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

According to the ODG Guidelines, Epidural steroid injections are a useful treatment for lumbar radiculopathy that has not responded to conservative care. The "Procedure Summaries" are the most important section of ODG Treatment, and that section (not the Treatment Planning section) should be used as a basis for Utilization Review. The requested procedure is not medically necessary. The ODG guidelines Procedure Summaries include the following criteria for the use of Epidural steroid injections (ESI):

The purpose of ESI is to reduce pain and inflammation, thereby facilitating progress in more active treatment programs, and avoiding surgery, but this treatment alone offers no significant long-term functional benefit.

After the Lumbar ESI in 2007 the patient received further treatment including education, medication and exercise.

Radiculopathy must be documented. Objective findings on examination need to be present.... The diagnosis requires a dermatomal distribution of pain, numbness, and/or paresthesias and a dermatomal distribution. A root tension sign is usually positive. The diagnosis of herniated disk must be substantiated by an appropriate finding on an imaging study.

- The physical examination findings by Dr. and Dr. in 2010 documented positive root tension signs consistent with lumbar radiculopathy. Dr. tension test was reported to be positive both on the right and on the left, in the L5 nerve root distribution.
- The imaging studies, which had been done prior to the lumbar ESI in 2007, were not repeated.

Therapeutic phase: If after the initial block/blocks are given and found to produce pain relief of at least 50%-70% pain relief for at least 6-8 weeks, additional blocks may be required. Indications for repeat blocks include acute exacerbation of pain, or new onset of symptoms.

- In the outpatient follow-up notes Dr. documented that the patient had reported 60-70 percent improvement after the lumbar ESI on September 14, 2007 and was doing very well from a low back standpoint on the follow-up visit January 4, 2008. These observations were reiterated in the letter of appeal July 30, 2010,
- Review of the progress notes reveals that the pain management program, including adjustment of medications, dealt primarily with the cervical spine symptoms through 2008.

The records document that lumbar spine symptoms increased in 2010.

A DESCRIPTION AND THE SOURCE OF THE SCREENING CRITERIA OR OTHER CLINICAL BASIS USED TO MAKE THE 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 JUDGEMENT, 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 NATIONALLY ACCEPTED MEDICAL LITERATURE (PROVIDE A DESCRIPTION)
- OTHER EVIDENCE BASED, SCIENTIFICALLY VALID, OUTCOME FOCUSED GUIDELINES (PROVIDE A DESCRIPTION)