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Notice of Independent Review Decision

DATE OF REVIEW: MARCH 6, 2011 **Amended Date:** March 8, 2011

IRO CASE #:

DESCRIPTION OF THE SERVICE OR SERVICES IN DISPUTE

63030 Lumbar Laminotomy/Discectomy @ L3-5, L4-5, L5-S1
63035 Addtl. Level Decompressions
69990 Microsurgery
22612 Arthrodesis Lateral @L3-4, L4-5, L5-S1
22614 Addtl. Level for Fusion
22851 Applications of Intervertebral Biomechanical Device
20938 Bone Autograft
22842 Posterior Non-Segmental Instrumentation
22558 Anterior Lumbar Arthrodesis @ L3-4, L4-5, L5-S1
22585 Addtl. Fusion Level
20975 Use of Invasive Electrical Stimulator
63685 Implantation of EBI Stimulator
22325 Reductions of Subluxation
22328 Addtl. Level for Reductions of Subluxation
99221 Inpatient Hospitalization: 2 Days

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

This reviewer is a Board Certified Neurological Surgeon with 19 years of experience.

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)

Provide a description of the review outcome that clearly states whether or not medical necessity exists for each of the health care services in dispute.

INFORMATION PROVIDED TO THE IRO FOR REVIEW

There is an Employers First Report of Injury that states the claimant sustained an injury to the lower back when he slipped and fell.

On June 21, 2010, x-rays of the lumbar spine were performed. Impression: Degenerative disk disease, spondylosis, osteoarthritis and straightening L3-S1 as interpreted by an M.D.

On June 28, 2010, the claimant was evaluated by a D.C. He has tenderness and numbness into his right lower extremity. He continues to have dull ache and numbness into his left lower extremity. Naproxen, Hydrocodone and Metaxalone provide pain relief. Impression: 1. Lumbar disk injury. 2. Lumbar nerve root irritation. 3. Lumbar myofascial irritation syndrome. He will begin physical therapy daily for 3 weeks.

On July 1, 2010, the claimant was evaluated by a PA-C. His pain score is 10/10 on VAS score. His burning and numbness goes down the left lower extremity. Impression: Low back pain, lumbar radiculopathy. He was referred out for a CT scan of the lumbar spine.

On July 2, 2010, the claimant was re-evaluated by a DC. He notes that he continues to have decreased pain and discomfort with medications, physical therapy, ice and rest at home. He will continue manipulations.

On July 14, 2010, the claimant was re-evaluated by a DC. He noted that with manipulation is does increase his ability to perform sitting posture, standing posture, and gait.

On July 19, 2010, the claimant was re-evaluated by a DC. He still complains of radicular symptoms in the left lower extremity. He continues to have lumbar spine muscle spasms. He was referred out for an MRI of the lumbar spine.

On July 22, 2010, the claimant was evaluated by a DC. He was found not to be at MMI. He is a potential surgical candidate. He is expected to reach MMI on or about 12/5/10.

On July 22, 2010, the claimant was evaluated by an M.S. Individual counseling while participating in physical therapy due to elevated fear avoidance behaviors and cognitions and the impact of his pain on his current level of physical functioning

On July 28, 2010, an MRI of the lumbar spine was performed. Impression: 1. Disc narrowing, posterior, central and left paracentral herniated disc measuring 5.83 mm at L4-5 with thecal sac impingement and suggestion of extrusion and inferior migration with low signal intensity in the left lateral recess of L5/6, suggestive of a disc fragment, with surrounding inflammatory changes. 2. Posterior central disc protrusion measuring 5.88 mm at L3-4 with thecal sac impingement. 3. Posterior central disc protrusion measuring 5.55 mm at L5-S1 with thecal sac impingement as interpreted by an M.D.

On August 5, 2010, a DC placed the claimant not at MMI and expected him to reach MMI on or about December 5, 2010.

On August 5, 2010, the claimant was evaluated by a PA-C. He is happy with the Skelaxin and Naprosyn regimen. He has paravertebral muscle spasm. He has paraesthesias around the lateral side of the thigh and lower left extremity. He wishes to see an orthopedic surgeon.

On August 13, 2010, the claimant was re-evaluated by a DC. He continues to have general decrease in symptoms with rest, medication, and application of heat and cold packs. He has increased radicular symptoms in the left side.

On August 27, 2010, the claimant was re-evaluated by a DC. His symptoms have remained unchanged. He has an orthopedic evaluation on September 7, 2010.

On September 7, 2010, the claimant was evaluated by an M.D. He has failed conservative treatment to include exercise program, medications and was offered ESI's but declined them. He has mild paravertebral muscle spasm, positive spring test L4-5 and L5-S1, positive sciatic notch tenderness on the left, positive extensor lag, positive flip test on the left, positive Lesegue's on the left at 45 degrees, contralateral positive straight leg raising on the right at 75 degrees, decreased knee jerk and ankle jerk on the left, absent posterior tibial tendon jerk

bilaterally. He would like to proceed with surgical intervention rather than trying ESI's.

On September 10, 2010, the claimant was re-evaluated by a DC. His symptoms have remained unchanged. He will be scheduled for a psychological evaluation prior to surgical intervention.

On September 15, 2010, an M.D. performed a peer review. He determined that there is no evidence of any actual injury to tissues, cells or structures, he slipped and fell, that's all. There is no evidence based explanation of how this mechanism of injury could lead to his type of injury. Treatment has been significantly unreasonable, unnecessary and excessive.

On September 23, 2010, the claimant was evaluated by an M.D. for pain management. He is tolerating Hydrocodone well. He would benefit from an ESI. He will continue Skelaxin, Hydrocodone and Naprosyn.

On October 11, 2010, the claimant was re-evaluated by a DC. His ESI was denied. His symptoms remain unchanged.

On November 11, 2010, an M.D. performed a bilateral L4-5 transforaminal epidural steroid injection.

On November 11, 2010, a DC placed the claimant not at MMI and expected him to reach MMI on or about February 11, 2011.

On November 24, 2010, the claimant was re-evaluated by a DC. He noted improvement of his pain after his lumbar spine ESI. He has about 10% improvement from the ESI.

On December 6, 2010, an EMG of the lower extremities was performed. Impression: 1. Clinical report of back pain bilaterally. 2. There is evidence of acute left L5 lumbar radiculopathy as interpreted by an M.D.

On December 8, 2010, the claimant was re-evaluated by a DC. He continues to have pain and discomfort in the lumbar spine. No additional injections have been recommended. Surgery was recommended.

On January 6, 2011, the claimant was re-evaluated by a DC. He notes no significant changes in his pain levels. Daily living activities aggravate his condition. A psychological evaluation and surgery have been recommended.

On January 11, 2011, the claimant was re-evaluated by an M.D. He is no longer able to put up with his back and leg pain. Examination shows paravertebral muscle spasm, positive sciatic notch tenderness, positive extensor lag, hypoactive knee jerk and ankle jerk on the left, absent posterior tibial tendon jerk

bilaterally, paraesthesias in the L4-S1 nerve root distribution on the left and weakness of the gastroc soleus, tibialis anterior and EHL in the left. He is to proceed with surgical intervention. Assessment: Lumbar HNP, L3-4, L4-5, L5-S1 with clinical instability at all three levels with failure of conservative treatment.

On January 12, 2011, the claimant underwent psychological screening pre-surgery. He has a history of depression and anxiety. He was given a good prognosis for surgical procedure as interpreted by a M.S., L.P.C.

On January 25, 2011, an M.D., an orthopedic surgeon, performed a utilization review on the claimant. Rational for Denial: Upon review of the psychological interview, noted worrisome issues. There is inadequate discussion of abnormal MMPI-2 profile. Claim with a history of depression and anxiety. MBMD concern regarding depression issues and the record notes psychological counseling recommended with an abnormal psychological profile. It is not probable that 3 level disc herniation is associated with the alleged work even. The treatment appears to be directed to pre-existing pathology. Therefore, it is not certified.

On February 4, 2011, an M.D., an orthopedic surgeon, performed a utilization review on the claimant Rational for Denial: The MRI suggests the patient has multilevel degenerative disc disease but no to the severity where one would expect one, two or three level instability. It is in the patient's best interest to obtain repeat imaging studies. Therefore, it is not certified.

PATIENT CLINICAL HISTORY:

On xx/xx/xx this male sustained an injury to the lumbar spine when he slipped and fell while stepping on some fluid that was on the floor.

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

The previous decisions are overturned. The claimant has completed six months of conservative care, has been screened for psychosocial variables, and there is documented clinical instability at all three levels via the clinical records. Therefore, based on the ODG the claimant meets the criteria for surgical intervention.

ODG for Fusion (spinal)

Patient Selection Criteria for Lumbar Spinal Fusion:

For chronic low back problems, fusion should not be considered within the first 6 months of symptoms, except for fracture, dislocation or progressive neurologic loss. Indications for spinal fusion may include: (1) Neural Arch Defect - Spondylolytic spondylolisthesis, congenital neural arch hypoplasia. (2) Segmental Instability (objectively demonstrable) - Excessive motion, as in degenerative spondylolisthesis, surgically induced segmental instability and mechanical intervertebral collapse of the motion segment and advanced degenerative changes after surgical discectomy. [For excessive motion criteria, see AMA Guides, 5th Edition, page 384 (relative angular motion greater than 20 degrees). ([Andersson, 2000](#)) ([Luers, 2007](#))] (3) Primary Mechanical Back Pain (i.e., pain aggravated by physical activity)/Functional Spinal Unit Failure/Instability, including one or two level segmental failure with progressive degenerative changes, loss of height, disc loading capability. In cases of workers' compensation, patient outcomes related to fusion may have other confounding variables that may affect overall success of the procedure, which should be considered. There is a lack of support for fusion for mechanical low back pain for subjects with failure to participate effectively in active rehab pre-op, total disability over 6 months, active psych diagnosis, and narcotic dependence. [For spinal instability criteria, see AMA Guides, 5th Edition, page 379 (lumbar inter-segmental movement of more than 4.5 mm). ([Andersson, 2000](#))] (4) Revision Surgery for failed previous operation(s) if significant functional gains are anticipated. Revision surgery for purposes of pain relief must be approached with extreme caution due to the less than 50% success rate reported in medical literature. (5) Infection, Tumor, or Deformity of the lumbosacral spine that cause intractable pain, neurological deficit and/or functional disability. (6) After failure of two discectomies on the same disc, fusion may be an option at the time of the third discectomy, which should also meet the ODG criteria. (See [ODG Indications for Surgery -- Discectomy](#).)

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)