Texas Department of Insurance, Division of Workers' Compensation
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity

PART I: GENERAL INFORMATION

Type of Requestor: (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier

Requestor=s Name and Address: Dr. Pedro Nosnik 4100 West 15th St. Ste 206 Plano, Texas 75093	MDR Tracking No.: M5-06-0901-01 Claim No.: Injured Employee's Name:
Respondent's Name and Address: TX Mutual Insurance Company, Box 54	Date of Injury: Employer's Name: Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC 60 package. Position summary states, "Documentation supports 'all key components' for these services rendered and therefore, it becomes essential for reimbursement."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC 60 response. Position summary states, "Texas Mutual requests that the request for dispute resolution filed be conducted under the provisions of the APA set out above."

PART IV: SUMMARY OF DISPUTE AND FINDINGS - Medical Necessity Services

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
9-21-05	CPT code 95934-50 – 2 units	☒ Yes ☐ No	0- Previously reimbursed by carrier
9-21-05	CPT code 95861-76 – 2 units	☒ Yes ☐ No	0-Previously reimbursed by carrier
9-21-05	CPT code 95925-76, 95926-76 (more than 2 units), 95934-50 (more than 2 units)	☐ Yes ☒ No	0

PART V: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Division Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), Medical Dispute Resolution assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The Division has reviewed the enclosed IRO decision and determined that the requestor did not prevail on the disputed medical necessity issues. Both the requestor and the respondent have stated that two units of CPT codes 95934 and 95861 have previously been reimbursed by the respondent.

Per Rule 133.304(k)(1)(B) the Request for reconsideration to the insurance carrier must have the identical codes and charges that are on the original medical bill. HCPCS codes A4556, A4558 and A4215 were originally billed as CPT code 99070. Therefore, a proper request for reconsideration was not submitted to the insurance carrier. These services will not be a part of this review.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.304, 133.308 and 134.202(c)(1).

PART VII: DIVISION DECISION

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. 413.031, the Division has determined that the requestor is not entitled to additional reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision and Order by:

	Donna Auby	3-13-06
Authorized Signature	Typed Name	Date of Order

PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW

Appeals of medical dispute resolution decisions and orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005]. An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. The Division is not considered a party to the appeal.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

March 6, 2006

TX DEPT OF INS DIV OF WC
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M5-06-0901-01
CLIENT TRACKING NUMBER: M5-06-0901-01-5278

Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIoA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

Records Received:

FROM THE STATE:
Notification of IRO assignment 2/10/06 – 1 page
Texas Department of Insurance Division of Workers' Compensation form 2/10/06 – 1 page
Medical dispute resolution request/response form – 1 page
Provider form – 1 page
Table of disputed services – 2 pages
Explanation of benefits from Texas Mutual 9/21/05 – 2 pages

FROM THE REQUESTOR/Pedro Nosnik, MD:
Intraoperative Monitoring worksheet 9/21/05 – 2 pages

Invoice from Viasys Neurocare 8/31/04 – 1 page
Invoice from Rhythmlink International, LLC 4/15/04 – 1 page
Intraoperative neuro-physiological monitoring form 9/21/05 – 1 page
Lumbar master w EEG H reflex print screen report – 9 pages

FROM THE RESPONDENT/Texas Mutual:
Letter to MRIoA from Texas Mutual 3/1/06 – 2 pages
MRI lumbar spine report 11/2/04 – 1 page
Operative report 9/21/05 – 2 pages
Discharge summary 9/21/05 – 2 pages
Order for payment of independent review organization fee – 1 page

Summary of Treatment/Case History:
The patient is a 45 year old man with a work related injury dating to ___. He failed conservative treatment and had a lumbar laminectomy and diskectomy with fusion L4-5 on 9/21/05. Intraoperative monitoring was performed. The modalities listed on the report dated 9/2/05, are bilateral median/posterior tibial SSEP, EEG asleep only, bilateral L2-S2 free running emg, bilateral H-reflex recorded from gastrocnemius, and pedicle screw stimulation/nerve conduction/nerve.

(continued)

Questions for Review:

1. ITEM(S) IS DISPUTE: Were the somatosensory study #95925-76-22 (upper limbs, 4 units); somatosensory study #95926-76-22 (lower limbs, 4 units); H-reflex study #95934-50 (4 units) Needle electromyography #95861-76 (6 units) on 9/21/05 medically necessary?

Explanation of Findings:
EMG monitoring makes use of the fact that improperly placed screws that broach the cortical confines of the bony pedicle or vertebral body cause low impedance between the screw and the exiting nerve root underneath the pedicle. Properly placed screws that remain entirely within the bone have high impedance. If the screw is stimulated with constant voltage greater than 30 volts (V) without EMG activation, the screw is unlikely to have broached the vertebral cortex. However, a response to stimulation at less than 20 V suggests a bony defect that provides a low impedance pathway to the nerve root. Intraoperative electromyographic activation has a high sensitivity for the detection of a new postoperative neurologic deficit but a low specificity. In contrast, somatosensory-evoked potentials have low sensitivity but high specificity. Combined intraoperative neurophysiologic monitoring with electromyography and somatosensory-evoked potentials is helpful for predicting and possibly preventing neurologic injury during thoracolumbar spine surgery. SSEP monitoring is currently the mainstay of spinal cord monitoring techniques. It is, overall, a reliable technique with a high sensitivity and specificity for early detection of intraoperative neurological compromise, and has a proven record over the last decade. A small study showed that use of upper extremity SSEP monitoring during lumbar surgery can be beneficial in detecting peripheral ischemia or neural compromise resulting from positioning, but no randomized or controlled studies were found to document this.

Based on the above information and the records reviewed, there is no data to substantiate the use of SSEP of the upper extremities, but their use in the lower extremities was indicated (the posterior tibial nerves only). Only 2 H-reflexes and EMGs of the lower extremities were indicated.

Conclusion/Partial Decision to Certify:

1. ITEM(S) IS DISPUTE: Were the somatosensory study #95925-76-22 (upper limbs, 4 units); somatosensory study #95926-76-22 (lower limbs, 4 units); H-reflex study #95934-50 (4 units) Needle electromyography #95861-76 (6 units) on 9/21/05 medically necessary?

Based on the above information and the records reviewed, there is no data to substantiate the use of SSEP of the upper extremities, but their use in the lower extremities was indicated (the posterior tibial nerves only).

Conclusion/Partial Decision to Not Certify:
Only 2 H-reflexes and EMGs of the lower extremities were indicated.

References Used in Support of Decision:
Somatosensory evoked potential monitoring of lumbar pedicle screw placement for in situ posterior spinal fusion. Gundanna M - Spine J - 01-SEP-2003; 3(5): 370-6.

Real-time continuous intraoperative electromyographic and somatosensory evoked potential recordings in spinal surgery: correlation of clinical and electrophysiologic findings in a prospective, consecutive series of 213 cases. Gunnarsson T - Spine - 11-MAR-2004; 29(6): 677-84.

Multimodality intraoperative monitoring during complex lumbosacral procedures: indications, techniques, and long-term follow-up review of 61 consecutive cases.
Krassioukov AV - J Neurosurg Spine - 01-OCT-2004; 1(3): 243-53.

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Use of somatosensory evoked potentials to detect peripheral ischemia and potential injury resulting from positioning of the surgical patient: case reports and discussion.
Jones SC - Spine J - 01-MAY-2004; 4(3): 360-2.

Anaesthesia for spinal surgery in adults. Raw DA-Br J Anaesth- 2003; 91: 886–904.

Appropriate Coding:
2 (#95926) SEP's of the lower extremities (right and left posterior tibial nerves)
2 (#95934) H-reflex gastrocnemius (right and left)
1 (#95861) EMG's of the lower extremities

The physician providing this review is a diplomate in Neurology of the American Board of Psychiatry and Neurology. This reviewer is a member of the American Medical Association and the American Academy of Neurology. This reviewer has been in active practice since 1980.

MRIoA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the DWC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

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The written opinions provided by MRIoA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIoA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIoA harmless for any and all claims, which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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Case Analyst: Cherstin B ext 597