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:	MDR Tracking No.: M5-06-1606-01
Texas Back Institute P.O. Box 262409 Plano, TX 75026-2409	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
TX Mutual Insurance Company, Box 54	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position summary states, "These codes are not unnecessary and are not included in the reimbursement of the other codes submitted by Dr. Nosnik on this date of service…please read the attached monitoring note by Dr. Nosnik that was submitted with the charge. Based on this information, please reprocess this claim for additional reimbursement."

Pinciple Documentation:

1. DWC-60/Table of Disputed Service
2. CMS-1500's
3. EOB's

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position statement submitted by Texas Mutual does not address the disputed issues.

Principle Documentation:

1. DWC-60/Table of Disputed Service
2. CMS-1500's
3. EOB's

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)
8-31-05	95861-26 ($105.39<MAR x 6 units)	☒ Yes ☐ No	$632.34
8-31-05	95925-26 ($73.68<MAR x 2 units)	☒ Yes ☐ No	$147.36
8-31-05	95926-26 (73.42<MAR x 2 units)	☒ Yes ☐ No	$146.84
	Grand Total		$926.54

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 prevail on the majority of the disputed medical necessity issues. The amount due the Requestor for the items denied for medical necessity is $926.54.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308, 134.1, 134.202(c)(1)
Texas Labor Code Sec.§ 413.011(a-d), 413.031

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 carrier must refund the amount of the IRO fee ($650.00) to the Requestor within 30 days of receipt of this order. The Division has determined that the Requestor is entitled to additional reimbursement in the amount of $926.54. The Division hereby **ORDERS** the Respondent to remit this amount plus all accrued interest due at the time of payment to the Requestor within 30 days of receipt of this Order.

Findings and Decision and Order by:

	Medical Dispute Officer	10-02-06
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.

MATUTECH, INC.

PO Box 310069
New Braunfels, TX 78131
Phone: 800-929-9078
Fax: 800-570-9544

June 22, 2006

Texas Department of Insurance
Division of Workers' Compensation
Fax: (512) 804-4001

Re: Medical Dispute Resolution
MRD#: M5-06-1606-01
DWC#:
Injured Employee:
DOI:
IRO Certificate No.: IRO5317

Dear Ms. ___:

Matutech, Inc. has performed an Independent review of the medical records of the above-named case to determine medical necessity. In performing this review, Matutech reviewed relevant medical records, any documents provided by the parties referenced above, and any

documentation and written information submitted in support of the dispute.

Matutech certifies that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him the provider, 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 Independent Review Organization.

Information and medical records pertinent to this medical dispute were obtained from Texas Back Institute Operations, Inc., and Gayle Jasinski, D.C. The Independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in orthopedics, and is currently on the DWC Approved Doctor list.

Sincerely,

John Kasperbauer
Matutech, Inc.

REVIEWER'S REPORT

Information provided for review:

Request for Independent Review

Information provided by Texas Back Institute Operations Inc.:

Clinic notes (11/17/2005 – 05/03/2006)
Procedure notes (08/31/2005)

Information provided by Gayle Jasinski, D.C.:

Clinic notes (04/01/2004 – 05/30/2006)
Radiodiagnostics (05/27/2003 – 09/02/2005)
Procedure notes (04/28/2004 – 08/31/2005)

Clinical History:

This is a 48-year-old male who fell on his back on a slippery surface at work. In , the patient was examined at Pecos County Memorial Hospital for lumbosacral pain syndrome. X-rays revealed advancing L5-S1 discogenic disease.

In February 2004, repeat x-rays demonstrated mild degenerative disc disease (DDD) from L3-L4 through L5-S1. Magnetic resonance imaging (MRI) of the lumbar spine revealed a moderate-sized disc herniation at L5-S1, centrally and to the left, with slight compression of the nerve root and thecal sac at this level along with disc desiccation and foraminal stenosis noted bilaterally due to hypertrophy of the facet joint with disc space narrowing. Gayle Jasinski, D.C., noted protracted lower back pain and left-sided leg symptoms. The patient had been on medications (hydrocodone, Skelaxin, and Lotrel). On examination, lumbar range of motion (ROM) was limited by pain. A positive Kemp's test was present on the left. The L5-S1 region and left sacroiliac (SI) joint were tender. Seated straight leg raise (SLR) test on the left elicited pain. Dr. Jasinski assessed lumbar disc disease with radiculopathy. Stuart Small, M.D., performed three selective neuroforaminal spinal nerve injections at left L5 with Depo-Medrol. Ralph Rashbaum, M.D., a spine specialist, noted that nothing made the patient's pain better other than an electrical stimulator and pain medication. Examination showed an antalgic limp, positive popliteal compression, motor deficiency in the L5 distribution, and severely diminished knee and ankle jerks bilaterally. On September 8, 2004, Dr. Rashbaum performed bilateral hemilaminotomy and neuroforaminotomy at L5-S1. Subsequently, the patient was treated by a number of doctors who prescribed Zanaflex, hydrocodone, Lotrel, Lasix, furosemide, Valium, Duricef, and Bextra. Physical therapy (PT) was started, but it increased his pain.

In January 2005, MRI of the lumbar spine demonstrated a previous surgery at L5-S1; some suspected enhancing scar or a vascularized disc herniation (appearing to produce some mass effect on the left S1 root); and a significant neural foraminal narrowing bilaterally at L5-S1. Dr. Stuart performed diagnostic bilateral median branch blocks from L3 through S1. A lumbar myelogram and computerized tomography (CT) revealed degenerative changes and narrowing of the L5-S1 intervertebral disc space. A discography of L3-L4 and L4-L5 discs was normal. Dr. Jasinski recommended a transcutaneous electrical nerve stimulation (TENS) unit.

On August 31 2005, Dr. Rashbaum performed discectomy and anterior lumbar interbody fusion (ALIF) at L5-S1. Ron Kirkwood, D.O., had assessed maximum medical improvement (MMI) as of January 11, 2005, which Dr. Rashbaum disagreed with. The patient continued to have severe back pain

extending into his left leg. X-rays of the lumbar spine demonstrated appropriate placement of the infix prosthesis at L5-S1. Dr. Gallegos continued to medically manage the patient with hydrocodone, Skelaxin, Neurontin, and Coumadin. Dr. Rashbaum suggested a switch from Neurontin to Lyrica. In November 2005, a letter from the Texas Back Institute to the carrier showed a request for reimbursement for short latency somatosensory evoked-potential (SSEP) study, neurophysiological monitoring, and electroencephalogram (EEG) performed during the surgery of August 2005.

On April 7, 2006, another letter from the Texas Back Institute to the carrier requested reimbursement on behalf of Dr. Nosnik for the intraoperative monitoring process performed. Dr. Nosnik stated that the principal goal of intraoperative monitoring was the identification of nervous system impairment in the hope that prompt intervention will prevent permanent deficits. The procedures are considered a support service to the operating physician. On May 30, 2006, Dr. Rashbaum noted the patient continued to have persistent back and leg pain. X-rays showed an excellent bony consolidation with a huge sentinel fusion at L5-S1. Dr. Rashbaum planned increasing Lyrica.

Disputed Services:

Muscle test – two limbs (95861) and somatosensory testing (95925/95926)
(08/31/2005)

Explanation of Findings:

Please review the above summary.

Conclusion/Decision To Uphold, Overturn or Partially Uphold/Overturn denial:

Reversed. Dr. Rashbaum is requesting SSEP and EMG monitoring during surgery. I do feel that this is a reasonable request and typically monitor the SSEP and EMG findings myself during lumbar spine procedures.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:

The use of SSEP and EMG tests for revision operations or fusion procedures are reasonable modalities to ensure the highest level of safety for patients intraoperatively.

The physician providing this review is an Orthopedic Surgeon. The reviewer is national board eligible by the American Board of Orthopedic Surgeons. The reviewer has been in active practice for 9 years.

Matutech is forwarding this decision by mail and in the case of time sensitive matters by facsimile to the Texas Department of Insurance, Division of Workers Compensation.

Matutech retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by Matutech clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the Utilization Review Accreditation Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by Matutech 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 Matutech for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Matutech 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. 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.

Your Right To Appeal

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). 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. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

June 22, 2006