

October 20, 2004

TEXAS WORKERS COMP. COMMISSION  
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-0020-01

CLIENT TRACKING NUMBER: M2-05-0020-01 5278

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

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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 TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIOA for independent review.

**Records Received:**

From the State of Texas:

- Notification of IRO assignment, 9/16/04
- TWCC MR-117 form, 9/16/04
- Medical Dispute Resolution Request/Response form
- Table of Disputed Services
- Notices of utilization review findings (Forte Insurance Company), 7/7/04 and 7/16/04
- TWCC order for payment of IRO fee

From RS Medical:

- Fax Transmittal coversheet, 10/8/04
- Letter from Joseph W. Basham, Manager, 10/8/04
- TWCC Order for Production of Documents
- TWCC MR-117 form, 9/16/04
- Treating Physician progress notes (Mary Burgessor, MD) 6/20/04
- RS Medical Prescription forms,
- RS Medical Patient Usage Reports, 4/22/04 - 7/29/04

From Dr. Burgessor:

- History and Physical, 9/22/98
- Follow up examination, 4/5/00
- Consultation, Luiz Cesar, MD, Neurosurgeon, 1/23/03
- Follow up visits, Dr. Luiz Cesar, 2/26/03, 3/20/03

- MRI of the lumbar spine without contrast, 9/30/98
- Lumbar ESI procedure note, 4/12/00
- Post lumbar discogram CT 3/17/03
- RS Medical Patient Usage reports
- Job description
- Physician's statement for Occupational Disability, 2/28/01
- Letter from Tate Eldridge, PC, 6/17/04
- Request for records, Texas Rehabilitation Commission, 11/14/01
- Precertification requests, 1/9/03, 1/22/03
- Prescriptions, 1/30/03, 3/11/03, 9/25/03, 4/22/04
- Medical history form, blank
- Call In Prescription form, 12/11/03
- Notice of Utilization Review Findings, Forte, 1/15/03, 1/28/03
- Notice of Intent to Issue Determination, Forte, 1/30/03
- Notice of Authorization, Foret, 1/27/03
- Progress notes/Office notes, 1/28/01 – 4/22/04
- Worker's Compensation Information form
- Miscellaneous fax coversheets and correspondence
- EMG/NCS of the lumbar spine and lower extremities
- Imaging studies of the lumbosacral spine and right hip, 1/14/03, 1/20/03
- MRI of the lumbar spine 2/20/03

**Summary of Treatment/Case History:**

Patient is a 56 year-old male who apparently injured his low back, \_\_\_\_\_. Patient had multiple MRI's of the lumbosacral spine which apparently revealed spinal stenosis. Patient subsequently underwent L4-L5 laminectomy and foramenectomy. The patient continued to have significant pain despite the surgery. Repeat MRI on 2/20/03 revealed moderate, right L3-L4 foraminal stenosis with possible nerve root impingement of L3. Subsequent EMG/NCS of the lumbar spine and bilateral lower extremities performed by treating doctor revealed a right L5 radiculopathy. Patient underwent lumbar ESI's, trial of pain medications and muscle relaxants without significant relief. The EMS unit in question was prescribed by treating doctor for lumbar spinal stenosis and lumbosacral disc degeneration on 4/22/04. According to the records patient received electrical stimulation from the EMS unit from 4/22/04 to 7/29/04. Re-evaluation on 7/29/04 revealed subjective improvement in pain, improved sleep, and decreased requirement for pain medication during this time frame.

**Questions for Review:**

1. Is the purchase of an RS-4i Sequential, 4 Channel combination Interferential and Muscle Stimulator Unit medically necessary?

**Explanation of Findings:**

The use of the EMS, long-term, by this patient is medically necessary according to the medical records. The records show that the patient did not have significant pain relief after above noted lower back surgery, lumbar epidural steroid injections, pain medications and muscle relaxants. During the time patient was started on the unit, 4/22/04, to a re-evaluation 7/29/04, patient reported decreased requirement for pain medication, decreased frequency of pain, improvement of moderate activities, decreased muscle spasms, improved condition, and improved sleep. Treating doctor also reported improved signs and symptoms during this period of EMS use. The long-term use of EMS is clinically indicated for chronic musculoskeletal pain, muscle spasms, pain control in general, better quality of life. However, the RS-4i is an electrical stimulation device much like the TENS unit. According to the medical records, a trial of the less expensive TENS unit was not done on this patient. Since the medical literature shows that the RS-4 is no more effective than a simple TENS unit, it would not be considered medically necessary. A less expensive unit such as the TENS may be more appropriate in this case.

**Conclusion – Decision to NOT Certify:**

1. Is the purchase of an RS-4i Sequential, 4 Channel combination Interferential and Muscle Stimulator Unit medically necessary?

The decision is to NOT certify the purchase of the RS-4i Sequential, 4 Channel Combination Interferential & Muscle Stimulator Unit as medically necessary. A less expensive unit such as the TENS may be more appropriate in this case.

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

Clinical indications as noted in medical literature for use of electrical stimulation in pain management (acute and chronic musculoskeletal pain, chronic neurogenic pain, general systemic pain), joint effusion or interstitial edema; protective muscle spasm; muscle disuse atrophy; dermal ulcers and wounds; and circulatory disorders.

**References Used in Support of Decision:**

Physical Medicine and Rehabilitation, Second edition, 2000, Richard L. Braddom, M.D.

Practical Manual of Physical Medicine and Rehabilitation; Diagnostics, Therapeutics, and Basic Problems, 1998, Jackson C. Tan, M.D.,P.T., Ph.D.

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The physician providing this review is board certified in Physical Medicine & Rehabilitation. The reviewer holds additional certification in Pain Management. The reviewer is also a member of the Physiatric Association of Spine, Sports and Occupational Rehabilitation. The reviewer is active in research and publishing within their field of specialty. The reviewer currently directs a Rehabilitation clinic.

MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

#### YOUR RIGHT TO REQUEST A HEARING

Either party to the medical dispute may disagree with all or part of this decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be receiving the TWCC chief Clerk of Proceedings within ten (10) days of your receipt of this decision as per 28 Texas Admin. Code 142.5.

If disputing other prospective medical necessity (preauthorization) decisions, a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within twenty (20) days of your receipt of this decision as per Texas Admin. Code 102.4 (h) or 102.5 (d). A request for hearing should be sent to:

Chief Clerk of Proceedings  
Texas Workers' Compensation Commission  
POB 40669  
Austin, TX 78704-0012

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute

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.

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

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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cc: RS Medical  
City of Amarillo c/o Crawford & Company