

October 18, 2004

GAIL ANDERSON  
TEXAS WORKERS COMP. COMMISSION  
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

MDR TRACKING #: M2-05-0071-01

IRO CERTIFICATION #: 5278

Medical Review Institute of America (MRloA) 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 MRloA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRloA 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 MRloA for independent review.

**Records Received:**

Records from the State of Texas

1. Notification of IRO Assignment dated 9/23/04 (1 page)
2. Receipt of request for Medical Dispute Resolution from Texas Workers' Compensation Commission dated 9/23/04 (1 page)
3. Medical dispute resolution request/response form, with table of disputed services dated 9/8/04 (3 pages)
4. Preauthorization determination #71140258-1 dated 8/9/04 (1 page)
5. Preauthorization determination #71138773-1 dated 6/16/04 (1 page)
6. Texas Workers' Compensation Commission order for production of documents dated 10/4/04 (1 page)
7. Office report dated 8/30/04 (1 page)
8. Letter from Dr. B, DC, DACNB dated 7/28/04 (2 pages)
9. Office note dated 6/3/04 (1 page)
10. Office note dated 4/28/04 (1 page)
11. Office note dated 3/9/04 (1 page)
12. Office note dated 2/3/04 (1 page)
13. Office note dated 12/17/03 (1 page)
14. Letter from Dr. B, DC, DACNB dated 11/20/03 (2 pages)

15. Office note dated 11/13/03 (1 page)
16. Office note dated 10/31/03 (3 pages)
17. Psychosocial evaluation and report dated 11/10/03 (2 pages)
18. Office note dated 1/19/04 (1 page)
19. Physical Performance Evaluation report dated 2/10/04 (16 pages)

Records from the Insurance Company:

20. Order for payment of independent review organization fee dated 10/8/04 (1 page)
21. Texas Workers' Compensation Commission order for production of documents dated 10/4/04 (1 page)
22. Preauthorization determination #71138773-1 dated 6/16/04 (2 pages)
23. Preauthorization determination #71140258-1 dated 8/9/04 (2 pages)
24. Employer's First Report of Injury, dated 3/16/01 (1 page)
25. Texas Workers' Compensation work status report dated 3/15/01 (1 page)
26. Response to TWCC-73 Line 13 C, undated (1 page)
27. X-ray reports of cervical and lumbar spines from Lone Star Radiology, dated 3/22/01 (6 pages)
28. Texas Workers' Compensation work status report dated 3/30/01 (1 page)
29. Medical consultation and report dated 4/1/01 (3 pages)
30. Medical consultation and report dated 8/2/01 (2 pages)
31. Texas Workers' Compensation work status report dated 8/2/01 (1 page)
32. Letter from \_\_\_\_, MB, FACP dated 8/7/01 (2 pages)
33. Office report dated 9/10/01 (2 pages)
34. Letter from Dr. T, MD dated 9/20/01 (2 pages)
35. History and physical exam dated 9/20/01 (4 pages)
36. HealthSouth Evaluation Center testing report dated 9/20/01 (8 pages)
37. Report of medical evaluation dated 9/20/01 (1 page)
38. Report of medical evaluation dated 10/9/01 (1 page)
39. Office report dated 10/4/01 (1 page)
40. Letter from Dr. R, DC dated 11/6/01 (2 pages)
41. Report of medical evaluation dated 11/6/01 (1 page)
42. Office report dated 11/12/01 (1 page)
43. Office report dated 5/6/02 (1 page)
44. Office report dated 6/6/02 (2 pages)
45. Office report dated 7/9/02 (1 page)
46. Impairment rating report dated 7/30/02 (5 pages)
47. Report of medical evaluation dated 7/30/02 (1 page)
48. Office report dated 10/31/03 (3 pages)
49. Texas Workers' Compensation work status report dated 10/31/03 (1 page)
50. Office report dated 11/13/03 (1 page)
51. Texas Workers' Compensation work status report dated 11/13/03 (1 page)
52. Psychosocial evaluation and recommendations dated 11/10/03 (3 pages)

53. Letter from Dr. B, DC, DACNB dated 11/20/03 (2 pages)
54. Lumbar exam report dated 11/21/03 (1 page)
55. Office report dated 12/17/03 (1 page)
56. Texas Workers' Compensation work status report dated 12/17/03 (1 page)
57. Office report dated 1/29/04 (1 page)
58. Office report dated 2/3/04 (1 page)
59. Office report dated 3/9/04 (1 page)
60. Texas Workers' Compensation work status report dated 2/3/04 (1 page)
61. Texas Workers' Compensation work status report dated 3/9/04 (1 page)
62. Letter from Dr. I dated 3/12/04 (2 pages)
63. Peer review dated 3/16/04 (5 pages)
64. MRI report dated 4/14/04 (2 pages)
65. Office report dated 4/28/04 (1 page)
66. Texas Workers' Compensation work status report dated 4/28/04 (1 page)
67. Office report dated 6/3/04 (1 page)
68. Texas Workers' Compensation work status report dated 6/3/04 (1 page)
69. Office report dated 6/14/04 (1 page)
70. Texas Workers' Compensation work status report dated 6/14/04 (1 page)
71. Letter from Dr. B, DC, DACNB dated 7/28/04 (2 pages)
72. Texas Workers' Compensation work status report dated 7/28/04 (1 page)
73. Office report dated 8/30/04 (1 page)
74. Texas Workers' Compensation work status report dated 8/30/04 (1 page)

**Summary of Treatment/Case History:**

The patient is a 40-year-old male journeyman for \_\_\_\_\_, who on \_\_\_\_\_, injured his neck, back and shoulders. Reportedly on that date, he was installing heavy metal panels on an escalator when he slowly developed pain in the reported regions. He presented to a doctor of chiropractic for treatment and received extensive chiropractic care, including therapy. He was declared at MMI with 0% whole-person impairment by a designated doctor on 7/30/02, and then resumed care on 10/31/03 with a new doctor of chiropractic. This current treating doctor of chiropractic referred him for multiple trigger point injections and referred him for surgery on his right shoulder.

**Questions for Review:**

1. Is a lower extremity EMG/NCV medically necessary?

**Explanation of Findings:**

1. Is a lower extremity EMG/NCV medically necessary?

No. This patient was declared at MMI on 9/20/01 with 0% whole-person impairment by not only a carrier-selected IME doctor, but also a TWCC-selected designated doctor. In the designated doctor's report, she specifically noted "functional overlay, symptom magnification and observational inconsistencies" with

“disproportionate verbalization, facial expression and pain behavior throughout.” In addition, she noted several positive Waddell signs on examination, and found “no evidence of neurological compromise.” Based on these factors alone, the medical necessity of these proposed diagnostic tests is unfounded.

But even setting the designated doctor’s opinion aside, the MRI reports, the radiographic reports, and the physical examination findings reviewed in this case were devoid of adequate justification to warrant this prospective procedure. Therefore, the medical necessity of the proposed lower extremity EMG/NCV is not supported.

**Conclusion/Decision to Not Certify:**

1. Is a lower extremity EMG/NCV medically necessary?

No.

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

Internal chart evidence.

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This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has given numerous presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty years.

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: Respondent  
Requestor