December 14, 2004

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
EMPLOYEE:
POLICY: M2-05-0387-01
CLIENT TRACKING NUMBER: M2-05-0387-01/5278

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.

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:

Records Received:
Records from the State:
Notification of IRO assignment dated 12/2/04, 1 page
Letter from Texas Workers' Compensation Commission dated 12/1/04, 1 page
Medical dispute resolution request/response, received 11/4/04, 3 pages
Letter from Texas Mutual dated 10/15/04, 1 page
Letter from Texas Mutual dated 9/20/04, 2 pages

Records from the Respondent:
Letter from Texas Mutual dated 12/7/04, 1 page
Letter from Texas Mutual dated 9/20/04, 2 pages

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Letter from Texas Mutual dated 10/15/04, 1 page
Texas Workers' Compensation Insurance Fund preauthorization request dated 9/16/04, 1 page
Letter from Dr. LeGrand Jr., MD dated 9/13/04, 1 page
Operative report dated 7/30/04, 2 pages
Radiology report dated 7/30/04, 1 page
History and physical examination dated 7/30/04, 2 pages
Letter from Dr. LeGrand Jr., MD dated 7/1/04, 1 page
MR lumbar spine report dated 5/24/04, 1 page
Letter from Dr. LeGrand Jr., MD dated 5/6/04, 1 page
Letter from Dr. LeGrand Jr., MD dated 12/18/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 12/1/03, 1 page
Operative report dated 11/21/03, 1 page
Radiology report dated 11/21/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 10/27/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 9/8/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 6/6/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 4/14/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 1/23/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 12/12/02, 2 pages

Records from the Doctor:
MRI of lumbar spine report dated 3/7/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 12/1/02, 2 pages
Letter from Dr. LeGrand Jr., MD dated 1/23/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 4/14/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 6/6/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 9/8/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 10/27/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 12/1/03, 1 page
Operative report dated 11/21/03, 1 page
Radiology report dated 11/21/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 12/18/03, 1 page
Letter from Dr. LeGrand Jr., MD dated 5/6/04, 1 page
MR of the lumbar spine report dated 5/24/04, 1 page
Letter from Dr. LeGrand Jr., MD dated 7/1/04, 1 page
Letter from Dr. LeGrand Jr., MD dated 8/3/04, 1 page
Operative report dated 7/30/04, 1 page
Radiology report dated 7/30/04, 2 pages
Letter from Dr. LeGrand Jr., MD dated 9/13/04, 1 page
Letter from Dr. LeGrand Jr., MD dated 10/4/04, 1 page
Letter from Dr. LeGrand Jr., MD dated 11/1/04, 1 page

Summary of Treatment/Case History:
The patient suffered an ___ slip and fall accident, and has had low back pain since that time. Steroid injections, physical therapy, and medications have not relieved pain. A request for a lumbar
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laminectomy with fusion and instrumentation of L5-S1 and a purchase of a TLSO Back Brace, requested for a diagnosis of severe chronic mechanical low back disorder and suspected lumbar discopathies/ lumbar radiculopathies, have not been certified. This has been appealed.

Questions for Review:
Item in Dispute: Please address prospective medical necessity of the proposed inpatient stay (1 night) for lumbar laminectomy with fusion and instrumentation and purchase of TLSO back brace, regarding the above-mentioned injured worker.

Conclusion/Decision to Not Certify:
The services are not certified as medically necessary. The L5 vertebra is described as sacralized. This means there is an anomalous (congenital) fusion of the fifth lumbar vertebra to the first sacral segment. So fusion with instrumentation not indicated at L5-S1, as the joint is already fused. Laminectomy for decompression is not indicated, because in the MR, myelogram, or CT and there is no evidence of nerve root compression. Also, no evidence of nerve root compression is found on physical exam, that is reflex, strength, and sensation in both lower extremities are reported as normal.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:
Article Med. Lav. 1997 May-June 88 (3) 226-236
Clinical studies indicated new correlation between transitional vertebrae and low back pain.

References Used in Support of Decision:
Dorland's Medical Dictionary-Definition of Sacralization Lumbar Vertebrae 5.

Magnora, It. Schwartz, H. Relation between the low back pain syndrome and x-ray findings

Scanel J. Rehab med. 1978, 10 (3) 135-45

Lumbar Disc Lesions "The Transitional Vertebra" Armstrong Jr.

The specialist providing this review is board certified in Neurosurgery. The reviewer has served as the chief Neurosurgeon at several VA Hospitals throughout the country. The reviewer is a member of the American Medical Association, the American College of Surgeons, the American Paraplegia Society, Congress of Neurological Surgeons and the American Association of Neurosurgeons. The Reviewer has served as an association professor, assistant professor and clinical instructor at the university level. The reviewer also has publishing, presentation and research experience within their specialty. The reviewer has been in active practice for over 20 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

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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

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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