

December 27, 2004

TEXAS WORKERS COMP. COMMISSION  
AUSTIN, TX 78744-1609

CLAIMANT:  
EMPLOYEE:  
POLICY: M2-05-0512-01  
CLIENT TRACKING NUMBER: M2-05-0512-01 5278

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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:**

Received from the State:

Notification of IRO Assignment, 12/15/04  
TWCC MR-117 Medical Dispute Resolution request notification, 11/29/04  
Medical Dispute Resolution Request/Response, 11/29/04  
Table of Disputed Services  
TWCC Pre-Authorization Report and Notification, 10/01/04  
TWCC Pre-Authorization Report and Notification Appeal, 10/19/04

Received from El Paso ISD:

Correspondence from Ward Strategic Claims Solutions, Helen Garcia, 12/13/04, 12/21/04

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Prospective Review (M2) Information request, 12/15/04  
TWCC Pre-Authorization Report and Notification, 10/01/04  
TWCC Pre-Authorization Report and Notification Appeal, 8/30/04, 10/19/04  
Correspondence from the Advanced Neurosurgery Center of El Paso, David Masel, MD, 10/11/04  
Clinic note, David Masel, MD, 7/8/03, 8/19/03, 1/13/04, 6/10/04, 8/17/04, 9/21/04  
TWCC-69 Report of Medical Evaluation, 05/04/04  
Correspondence from Jose DeJesus, MD, with review of Medical History and Physical Exam, 05/04/04  
Progress notes, 4/28/03, 5/6/03, 5/12/03, 5/19/03,  
Operative report, 7/28/03  
TWCC Work Status Reports, 05/12/03, 05/19/03  
Argus Services Preauthorization IPA Request Form, 10/01/04  
MRI lumbar spine dated 05/13/03 and 09/08/04  
History and physical, Robert Olivares, MD, 7/28/03  
Neurosurgical notes) and other Medical Consultations (04/28/03, 05/06/03, 05/12/03, 05/19/03,  
07/08/03, 08/19/03, 01/13/04, 06/10/04, 08/17/04, 09/21/04, 10/11/04),

**Summary of Treatment/Case History:**

By history, the patient is a 43 year-old male who presented following an injury dated \_\_\_\_\_. He complains of low back pain on the right radiating down the posterior aspect of the right lower extremity. He has intermittent numbness and tingling posteriorly to the right lower extremity. Urination and bowel movements are intact. Sleeping is disrupted by the pain. The pain is exacerbated by prolonged sitting, standing and walking. He cannot lift objects heavier than 25 pounds. He is able to bathe, dress himself and perform other activities of daily living. On \_\_\_\_ he twisted his back while attempting to catch a falling student. On exam the lumbar spine shows decreased flexion and extension at the waist. Rotation and lateral bending are grossly intact. He is tender at the L3-4, L4-5 and L5-S1 levels on the right. Straight leg raising test is positive on the right. The deep tendon reflexes are 2+ and symmetrical. His strength is 5/5 in both lower extremities. Pinprick sensation is intact in the lower extremities. There is no atrophy. MRI of the lumbar spine dated 5/13/03 showed degenerative disc changes including a right-sided disc herniation at L5-S1. There was mild degenerative disc changes and mild spinal canal stenosis at L3-4 and L4-5 with central canal stenosis. Subsequent MRI on 09/08/04 documents a right subarticular and foraminal disc protrusion overlying an annular bulge at L5-S1 with marked stenosis of the neuroforamen on the right. Other degenerative changes are also noted. On his History and Physical Examination dated 7/08/03 by David Masel, MD, the diagnosis of disc disease was made and the recommendation for L5-S1 epidural steroid injection on 7/28/03 and continued therapy at El Paso Physical Therapy. The patient continues to complain of low back pain, which radiates into the right leg. He states he still has the pain off and on and it occasionally radiates to the left leg as well. He states that prior therapy was of no benefit. The one epidural steroid injection did help. His insurance however denied the second epidural steroid injection stating that it was medically unnecessary. A L5-S1 discectomy with posterior lumbar interbody fusion with BMP and hardware has been recommended.

**Questions for Review:**

1. Is the requested surgery medically necessary?

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**Explanation of Findings:**

By history, the patient is a 43 year-old male who presented following an injury dated \_\_\_\_\_. He complains of low back pain on the right radiating down the posterior aspect of the right lower extremity. He has intermittent numbness and tingling posteriorly to the right lower extremity. On exam the lumbar spine shows decreased flexion and extension at the waist. Rotation and lateral bending are grossly intact. He is tender at the L3-4, L4-5 and L5-S1 levels on the right. Straight leg raising test is positive on the right. The deep tendon reflexes are 2+ and symmetrical. His strength is 5/5 in both lower extremities. Pinprick sensation is intact in the lower extremities. There is no atrophy. MRI of the lumbar spine dated 5/13/03 showed degenerative disc changes including a right-sided disc herniation at L5-S1. There was mild degenerative disc changes and mild spinal canal stenosis at L34 and L45 with central canal stenosis. Subsequent MRI on 09/08/04 documents a right subarticular and foraminal disc protrusion overlying an annular bulge at L5S1 with marked stenosis of the neuroforamen on the right. Other degenerative changes are also noted. The patient continues to complain of low back pain, which radiates into the right leg.

**Conclusion/Decision to Certify:**

1. Is the requested surgery medically necessary?

A L5-S1 discectomy with posterior lumbar interbody fusion with BMP and hardware has been recommended; this is medically necessary and an appropriate level of care. The proposed procedures are medically necessary.

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

The need for a lumbar interbody fusion with pedicle screw fixation is based upon clinical evidence of instability and spondylolisthesis or patients with progressive degenerative disease with significant back pain who have failed conservative measures. The patient does satisfy these criteria. Her MRI does document significant spondylosis with root impingement.

**References Used in Support of Decision:**

1. Zheng F. Sandhu HS. Cammisa FP Jr. Girardi FP. Khan SN. Predictors of functional outcome in elderly patients undergoing posterior lumbar spine surgery. *Journal of Spinal Disorders*. 14(6):518-21, 2001 Dec.
2. Reddy P. Williams R. Willis B. Nanda A. Pathological evaluation of intervertebral disc tissue specimens after routine cervical and lumbar decompression. A cost-benefit analysis retrospective study. *Surgical Neurology*. 56(4):252-5, 2001 Oct.
3. Caserta S. La Maida GA. Misaggi B. Peroni D. Pietrabissa R. Raimondi MT. Redaelli A. Elastic stabilization alone or combined with rigid fusion in spinal surgery: a biomechanical study and clinical experience based on 82 cases. *European Spine Journal*. 11 Suppl 2:S192-7, 2002 Oct.
4. Mayer HM. Korge A. Non-fusion technology in degenerative lumbar spinal disorders: facts, questions, challenges. *European Spine Journal*. 11 Suppl 2:S85-91, 2002 Oct.
5. Szpalski M. Gunzburg R. Mayer M. Spine arthroplasty: a historical review. *European Spine Journal*. 11 Suppl 2:S65-84, 2002 Oct

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The physician providing this review is board certified in Neurological Surgery. The physician is a member of the American Medical Association, the Congress of Neurological Surgeons, the American Association of Neurological Surgeons, the Society of University Neurosurgeons and the American College of Surgeons. The reviewer has served on the editorial boards for Neurosurgery and Journal of Neurosurgery: Focus. The reviewer has served as a clinical instructor and Assistant Professor of Neurosurgery at the university level. The reviewer is currently an associate professor at the university level. The reviewer has extensive publishing and presentation within their field of specialty. The reviewer has been in active practice since 1986.

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

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state and federal regulatory requirements.

The written opinions provided by MRloA 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 MRloA 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 MRloA 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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