

February 10, 2005

TEXAS WORKERS COMP. COMISSION  
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-0620-01

CLIENT TRACKING NUMBER: M2-05-0620-01 / 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:**

RECORDS FROM THE STATE:

Notification of IRO Assignment dated 1/7/05

Texas Workers' Compensation Commission form dated 1/5/05

Medical Dispute Resolution Request/Response form dated 12/20/04

Table of Disputed Services

Review Determination from The Hartford dated 11/23/04

RECORDS FROM THE REQUESTOR:

Texas Workers' Compensation Commission form dated 1/5/05

Healthtrust Indication for evaluation form dated 8/24/04

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Healthtrust Change in Condition form letter dated 12/1/04  
Letter from Dr. Larry Gordon, D.C. dated 11/22/04  
Letter of medical necessity from Dr. Larry Gordon, D.C.  
Healthtrust Request for Service form  
Treatment Plan  
Progress notes from 10/12/04–11/16/04  
Progress note from Dr. Larry Gordon, D.C. dated 11/30/04  
Designated Doctor Evaluation from Dr. Raymond P. Kwong, M.D. dated 11/17/04  
Lumbar ROM impairment report  
Thoracic ROM impairment report  
Cervical ROM impairment report  
Report of Medical Evaluation dated 12/2/04  
Progress notes from Dr. Larry Gordon, D.C. dated from 11/16/04–11/25/04  
Letter to Dr. Kwong from Attorney Jack Latson dated 11/3/04  
Progress note from Dr. Larry Gordon D.C. dated 11/16/04  
Active rehabilitative exercise progress sheet dated 11/16/04  
Progress not from Dr. Larry Gordon D.C. dated 11/11/04  
Active rehabilitative exercise progress sheet dated 11/11/04  
Healthtrust initial interview report  
Texas Workers' compensation work status report dated 11/17/04  
Letter of medical necessity from Dr. Larry Gordon, D.C.  
History/Physical and Recommendation note from Dr. Lubor Jarolimek M.D.  
Initial assessment/physical examination notes from The Suchowiecky Center dated 6/7/04  
Report of functional capacity evaluation dated 4/19/04  
LuMaR Diagnostic imaging exam note dated 3/9/04  
EMG/NCV report from United Neurology dated 2/9/04  
MRI report from Lumar Diagnostic imaging dated 12/10/03  
Progress notes from Dr. Larry Gordon D.C. dated 8/26/04 – 8/31/04  
History/Physical and recommendation note from Dr. Lubor Jarolimek MD dated 7/8/04  
Initial assessment note from The Suchowiecky center dated 6/7/04

RECORDS FROM SRS:

Review determination letter from The Hartford dated 11/23/04  
Review determination letter from The Hartford dated 12/8/04  
Healthtrust Change in condition note dated 12/1/04  
Letter from Larry Gordon, D.C. dated 11/22/04  
Letter of medical necessity from Larry Gordon D.C.  
Request for services letter  
Treatment plan  
Progress notes from 10/12/04–11/16/04  
Progress notes from Dr. Larry Gordon D.C. dated 11/16/04–11/30/04  
Letter to Dr. Kwong from Attorney Jack W. Latson dated 11/3/04  
Progress notes from Dr. Larry Gordon D.C. dated 11/16/04  
Active rehabilitative exercise progress note dated 11/16/04  
Progress note from Dr. Larry Gordon D.C. dated 11/11/04  
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Active rehabilitative exercise progress note dated 11/11/04  
Texas Workers' Compensation Work Status Report dated 11/17/04  
Indication for Evaluation note dated 8/24/04  
Letter of medical necessity from Dr. Larry Gordon, D.C.  
Request for services  
Treatment plan  
Progress notes dated 10/12/04-11/16/04  
Letter to Dr. Kwong from attorney Jack W. Latson dated 11/3/04  
Progress notes from Dr. Larry Gordon D.C. dated 11/16/04  
Active rehabilitative exercise progress sheet dated 11/16/04  
Progress notes from Dr. Larry Gordon D.C. dated 11/11/04  
Active rehabilitative exercise progress sheet dated 11/11/04  
Texas Worker Compensation Work Status Report dated 11/17/04  
Letter of Medical Necessity from Dr. Larry Gordon D.C.  
Letter from Dr. Larry Gordon, D.C. dated 11/22/04  
Pre-authorization forms from review manager

RECORDS FROM TREATING PROVIDER:

Texas Workers' Compensation Work Status Report dated 11/17/04  
Letter of medical necessity from Dr. Larry Gordon, D.C.  
Texas Workers' Compensation Work Status Report dated 10/27/04  
Ct scan report from LuMar diagnostic imaging dated 3/9/04  
MRI report from LuMar diagnostic imaging dated 12/10/03  
EMG/NCV report from United Neurology dated 2/9/04  
Initial assessment/physical examination note dated 6/7/04  
Weekly projected functional goals report from HealthRite  
Letter from Dr. Ronald Kahn, M.D. to Dr. Larry Gordon D.C. dated 6/7/04  
Weekly projected physical and functional goals report from HealthRite  
Initial assessment/physical examination report from The Suchowiecky Center dated 6/7/04  
Letter of medical necessity from Dr. Larry Gordon, D.C. dated 4/27/04  
Functional Capacity Evaluation report from Acadiana Impairment & Functional Assessment Testing  
Letter of medical necessity from Dr. Larry Gordon, D.C. dated 2/12/04  
Office notes from Pain and rehabilitation solutions dated 12/30/03 and 1/20/04  
Office notes from Dr. Lubor Jarolimek M.D.  
Office notes/statement of medical necessity from Global Medical dated 1/15/04  
Office notes from Dr. Lubor Jarolimek M.D. dated 1/8/04  
Letter to Attorney Van Slyke from Dr. Larry Gordon D.C. dated 1/9/04  
MRI report from LuMar diagnostic imaging dated 12/10/03  
Active Rehabilitative exercise progress sheet dated 12/11/03  
Texas Workers' Compensation Work Status Report dated 12/17/03  
Letter to Adjustor: Lori Kunschman from Dr. Larry Gordon D.C. dated 6/21/04  
Office notes from Dr. Lubor Jarolimek M.D. dated 7/8/04  
Letter of medical necessity from Dr. Larry Gordon D.C. dated 8/3/04  
Designated Doctor Evaluation notes dated 11/17/04

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**Summary of Treatment/Case History:**

The claimant is a 35 year old man who suffered a workplace injury on \_\_\_ when he fell several feet, sustaining spinal injuries and a fractured rib. He has received extensive chiropractic treatment and physical therapy, including TENS, massage therapy and ultrasound and work hardening. Despite this, and six sessions of individual psychotherapy, his pain remains severe enough to prevent his return to work. There are no surgical procedures indicated and no invasive pain management that would be appropriate. He currently takes COX-2 inhibitors but apparently no opioids. Physical examination reveals widespread tenderness of the paraspinal muscles. There is a positive straight leg- raising test. EMG shows evidence of T9 and T10 radiculopathy. MRI shows a small disc bulge at L4-5.

**Questions for Review:**

1. Please address prospective medical necessity of the proposed chronic pain management 5 x week x 6 weeks = 30 sessions, regarding the above-mentioned injured worker.

**Explanation of Findings:**

1. Please address prospective medial necessity of the proposed chronic pain management 5 x week x 6 weeks = 30 sessions, regarding the above-mentioned injured worker.

The claimant continues to suffer from spinal pain involving the cervical, thoracic and lumbar spine over a year following a serious workplace injury. He has undergone extensive conservative treatment including chiropractic treatment, physical therapy, psychotherapy and work hardening. Although he appears to have improved in terms of his functional capacity, his psychological issues apparently limit his rehabilitation efforts at this point. He appears to satisfy the usual selection criteria for entry into an intensive multidisciplinary pain management program such as that proposed. It would be reasonable and medically necessary to authorize a 10 session trial of this program, with a concurrent review at that point and continuation of the program for the subsequent 20 sessions being contingent on some progress at the completion of 10 sessions.

**Conclusion/Decision to Certify:**

Certify the first 10 sessions of a 30- session chronic pain management program. The subsequent 20 sessions should be certified only after concurrent review reveals some progress during the first 10 sessions.

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

The usual selection criteria for entry into an intensive multidisciplinary chronic pain management program are:

1. Referral for entry has been made by the primary care physician/attending physician; and
2. Patient has experienced chronic non-malignant pain (not cancer pain) for 6 months or more; and
3. The cause of the patient's pain is unknown or attributable to a physical cause, i.e., not purely psychogenic in origin; and
4. Patient has failed conventional methods of treatment; and
5. The patient has undergone a mental health evaluation, and any primary psychiatric conditions have been treated, where indicated; and
6. Patient's work or lifestyle has been significantly impaired due to chronic pain; and

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7. If a surgical procedure or acute medical treatment is indicated, it has been performed prior to entry into the pain program

**References Used in Support of Decision:**

Patrick, et al. (2004). Long-term outcomes in multidisciplinary treatment of chronic low back pain: results of a 13-year follow-up. *Spine* 29:850-5.

Haldorsen, et al. (2002). Is there a right treatment for a particular patient group? Comparison of ordinary treatment, light multidisciplinary treatment, and extensive multidisciplinary treatment for long-term sick-listed employees with musculoskeletal pain. *Pain* 95:49-63.

Guzman, et al. (2002). Multidisciplinary bio-psycho-social rehabilitation for chronic low back pain. *Cochrane Database Syst Rev* CD000963.

Turk (2001). Combining somatic and psychosocial treatment for chronic pain patients: perhaps 1 + 1 does = 3. *Clin J Pain* 17:281-3.

Mayer, et al. (2001). Effect of age on outcomes of tertiary rehabilitation for chronic disabling spinal disorders. *Spine* 26:1378-84.

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The physician providing this review is board certified in Anesthesiology. The reviewer holds additional certification in Pain Medicine from the American Board of Pain Medicine. The reviewer is a diplomate of the national board of medical examiners. The reviewer has served as a research associate in the department of physics at MIT. The reviewer has received his PhD in Physics from MIT. The reviewer is currently the chief of Anesthesiology at a local hospital and is the co-chairman of Anesthesiology at another area hospital. The reviewer has been in active practice since 1978.

MRloA 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

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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: Requestor  
Respondent