

February 1, 2005

TEXAS WORKERS COMP. COMMISSION  
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-0643-01

CLIENT TRACKING NUMBER: M2-05-0643-01 / 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:**

Received from the State:

Notification of IRO Assignment 11/10/04

Medical Dispute Resolution 11/10/04

Medical Dispute Resolution Request/Response 12/27/04

Table of disputed services

Letter from Dr. Rosenzweig, MD dated 12/15/04

Letter from Dr. Trafimow, MD dated 11/19/04

Received from Robert Legrand MD:

Radiology report from Shannon West Texas Memorial Hospital dated 10/28/04

Letter to Dr. Day MD dated 6/5/03

(continued)

Letter to Dr. Day MD dated 7/10/03  
Letter to Dr. Day MD dated 10/27/03  
Radiology report from Shannon West Texas Memorial Hospital dated 11/17/03  
Letter to Dr. Day MD dated 11/24/03  
Operative report from Shannon West Memorial Hospital dated 12/10/03  
Radiology report from Shannon West Texas Memorial Hospital dated 12/10/03  
Radiology report from Shannon West Texas Memorial Hospital dated 12/10/03  
Letter to Dr. Day MD dated 12/18/03  
Discharge summary from Shannon West Texas Memorial Hospital dated 1/14/04  
Operative report from Shannon West Texas Memorial Hospital dated 1/13/04  
Letter to Dr. Day MD dated 2/12/04  
Letter to Dr. Day MD dated 4/22/04  
Letter to Dr. Day MD dated 7/19/04  
Letter to Dr. Day MD dated 10/19/04  
Operative report from Shannon West Memorial Hospital dated 10/29/04  
Radiology report from Shannon West Memorial Hospital dated 10/29/04  
Letter to Dr. Day MD dated 11/11/04  
Letter to Dr. Day MD dated 11/29/04  
Letter to Dr. Day MD dated 12/13/04

Received from Respondent:

Letter from Steven M. Tipton Attorney dated 1/26/05  
Letter from Steven M. Tipton Attorney dated 1/5/05  
Medical Dispute Resolution Request/Response 12/27/04  
Table of Disputed Services  
Letter from Dr. Rosenzweig MD dated 12/15/04  
Letter from Dr. Trafimow MD dated 11/19/04

**Summary of Treatment/Case History:**

In \_\_\_\_, the stairway hand rail fell and hit the neck and head of the patient resulting in neck pain and an anterior discectomy, inter body fusion and plating C5–C7 in May 2002. There was no relief in neck and arm pain. On January 13, 2004, the patient had left cervical C5–6 and C6–7 Laminoforaminotomy and medial facetectomy for nerve decompression for radiculopathy secondary to foraminal stenosis. The arm pain is relieved but the patient still had severe neck pain. The diagnosis is now chronic posterior pain and muscular contraction headache.

**Depo–Medrol and Marcaine injection history:**

11/14/03–The patient felt no relief.  
5/04– The injection helped conservatively.  
9/04– The injection helped very little.

**Questions for Review:**

1. Please address the prospective medical necessity of the proposed Cervical Depo–Medrol and Marcaine injection.

(continued)

**Explanation of Findings:**

The current diagnosis is chronic posterior cervical pain and muscular headache (chronic pain in the neck and head from contraction/spasm in muscles of the neck) this is based on the physicians report.

The patient has had three Depo–Medrol and Marcaine injections for chronic neck pain; The first injection gave no relief, the second helped conservatively, and the last helped very little. A request for a fourth injection has been denied. The appeal has been submitted for this reason.

**Conclusion/Decision to Not Certify:**

1. Please address the prospective medical necessity of the proposed Cervical Depo–Medrol and Marcaine injection.

The proposed injection is not certified as medically necessary. The reviewer agrees with the previous denial based on the chronical review. The CT was negative, and there are no new neurological findings, and no indication of discogenic pain. Also as two of the three injections have not been helpful, there would be no reason for a 4<sup>th</sup> one.

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

Scientific evidence indication injection Depo–Medrol and Marcaine for neck pain: indicated for nerve root pain. The patient has been relieved of his radicular pain. The diagnosis is now muscular contraction neck pain.

**References Used in Support of Decision:**

emedicine.com/neuro/topic.514.htm, Anthony H. Wheeler, MD. Physical Therapy for Neck Pain. Nicholes Institute for sports medicine.

-----

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.

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.

(continued)

## 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 received by 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.

(continued)

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.

1133875.1

cb

cc: Requestor  
Respondent