

February 2, 2005

TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-0718-01

CLIENT TRACKING NUMBER: M2-05-0718-01 / 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 from the State of Texas:

- Notification of IRO assignment dated 1/25/05, 1 page
- Letter from TWCC dated 1/25/05, 1 page
- Medical dispute resolution request/response form, date for receipt from requestor 1/11/05, 3 pages
- Letter from Rita Hlister dated 12/28/04, 1 page
- Letter from Concentra Integrated Services dated 12/6/04, 1 page

Records from the Requestor:

- EMG/NCV examination report dated 8/18/04, 2 pages
- Operative report dated 11/25/03, 1 page

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- Operative report dated 12/5/03, 1 page
- Office notes dated 8/2/04 through 10/22/04, 23 pages total
- MRI of the lumbar spine dated 10/22/03, 2 pages
- Radiographic report dated 11/17/03, 1 page
- Office report dated 3/29/04, 3 pages
- Designated doctor evaluation dated 8/14/04, 5 pages
- Lumbar ROM impairment report, undated, 1 page
- Return patient visit dated 6/8/04, 1 page
- Lumbar discogram and CT report dated 9/28/04, 1 page
- Return patient visit dated 10/25 (year illegible), 1 page
- Electromyography report dated 8/18/04, 2 pages
- NCS/EMG report dated 11/4/03, 2 pages

Records from Respondent:

- Case summary dated 12/23/04, 2 pages
- Case summary dated 12/23/04, 2 pages
- Review summary dated 12/23/04, 2 pages
- Primary medical report dated 10/30/03, 2 pages
- MRI of the lumbar spine dated 10/22/03, 2 pages
- Case summary dated 11/6/03, 1 page
- Case summary dated 11/19/03, 2 pages
- Primary medical report dated 11/26/03, 2 pages
- Case summary dated 11/21/03, 2 pages
- Case summary dated 12/1/03, 1 page
- Operative report dated 12/5/03, 1 page
- Case summary dated 12/2/03, 2 pages
- Case summary dated 12/8/03, 2 pages
- Case summary dated 12/9/03, 2 pages
- Case summary dated 12/12/03, 2 pages
- Case summary dated 12/12/03, 1 page
- Progress note dated 1/7/04, 1 page
- Office notes dated 1/16/04 through 2/26/04, 9 pages
- Case summary dated 2/3/04, 2 pages
- Case summary dated 2/5/04, 2 pages
- Pre-procedure report dated 2/10/04, 1 page
- History and physical exam dated 2/10/04, 1 page
- Physician's orders dated 2/10/04, 1 page
- Recovery room record dated 2/10/04, 1 page
- Anesthesia report dated 2/10/04, 1 page
- Patient charges for pain management dated 2/10/04, 1 page
- Anesthesia try charges dated 2/10/04, 1 page
- Surgical/epidural tray charges dated 2/10/04, 1 page
- Case summary dated 2/10/04, 2 pages
- Operative report dated 2/10/04, 2 pages
- Office notes dated 2/20/04 and 2/23/04, 2 pages

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- Progress note dated 2/25/04, 1 page
- Case summary dated 2/25/04, 1 page
- Case summary dated 2/23/04, 2 pages
- Office notes dated 2/25/04 and 2/27/04, 2 pages
- Patient charges for pain management dated 2/27/04, 1 page
- Anesthesia tray charges dated 2/27/04, 1 page
- Pre-procedure form dated 2/27/04, 1 page
- Physician's orders dated 2/27/04, 1 page
- Recovery room record dated 2/27/04, 1 page
- Anesthesia record dated 2/27/04, 1 page
- Surgical/epidural tray dated 2/27/04, 1 page
- Operative report dated 2/27/04, 2 pages
- Case summary dated 3/5/04, 2 pages
- Office note dated 3/10/04, 1 page
- Case summary dated 3/8/04, 2 pages
- Case summary dated 3/11/04, 2 pages
- Recovery room record dated 3/12/04, 1 page
- Anesthesia record dated 3/12/04, 1 page
- Pre-procedure form dated 3/12/04, 1 page
- Physician's orders dated 3/12/04, 1 page
- Patient charges for pain management dated 3/12/04, 1 page
- Surgical/epidural tray dated 3/12/04, 1 page
- Anesthesia tray charges dated 3/12/04, 1 page
- Operative report dated 3/12/04, 2 pages
- Office note dated 3/15/04, 1 page
- Progress notes dated 3/17/04 through 4/14/04, 3 pages
- Office notes dated 3/17/04 through 9/24/04, 19 pages
- Initial exam dated 3/29/04, 1 page
- Case summary dated 8/26/04, 2 pages
- Medical review dated 8/1/04, 3 pages
- Designated doctor evaluation dated 8/14/04, 5 pages
- Lumbar discogram and CT report dated 9/28/04, 2 pages
- Designated doctor evaluation dated 8/14/04, 5 pages
- Lumbar ankylosis in lateral flexion report, undated, 1 page
- EMG/NCV examination dated 8/18/04, 2 pages
- Electromyography report dated 8/18/04, 6 pages
- TWCC-69 report of medical evaluation dated 8/18/04, 1 page
- Lumbar discogram and CT report dated 9/28/04, 2 pages
- Return patient visit report dated 10/25 (year illegible), 1 page
- Case summary report dated 11/5/04, 1 page
- Letter from Dr. Sazy dated 11/8/04, 1 page
- Office notes dated 11/8/04 through 12/6/04, 6 pages
- Office report dated 12/7/04, 2 pages

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Summary of Treatment/Case History:

The patient is a 30-year-old male who was injured on ___ when he lifted a box and experienced low back pain.

A 10/22/03 MRI of the lumbar spine showed moderate disc dehydration and a mild loss of disc space height at L5-S1 and a left greater than right central disc protrusion contained by epidural fat. The disc material did not compress or displace the nerve root. A minor facet arthropathy was noted. The 11/17/03 lumbar spine x-rays revealed reduction of lumbar lordosis, pelvis unleveling on the left, and facet imbrication. The patient had EMG/NCS studies done on 11/04/03 that showed acute left L4-5 lumbar radiculopathy noted by denervation/reinnervation.

Lumbar epidural steroid injections were given on 11/25/03, 12/05/03 and 12/12/03.

The patient received chiropractic care from Dr. Schmidt from 1/04 through 4/04 without any appreciable change in his complaints or condition. He was referred to pain management. On examination there was reported acute facet tenderness. He received facet injections at L3-4, L4-5 and L5-S1 bilaterally with some improvement in his level of pain.

Dr. Sazy evaluated the patient on 3/29/04 for persistent back pain. On examination there was tenderness and reduced motion, but no documented neurological deficit. Dr. Sazy's impression was back pain, leg pain and S1 nerve root compression. He recommended a Cybertech brace and medications.

Dr. Gandhi saw the patient for a designated doctor examination on 8/14/04. He noted that the patient had been treated with nine months of chiropractic care, ten months of therapy/TENS, and nine injections. The patient still complained of low back pain with numbness in the left buttock and thigh. On examination the gait was guarded. Motion was limited and painful. There was decreased sensation in the peroneal and sural nerves to pinwheel. The patient was able to toe and heel walk with difficulty. Straight leg raise was negative bilaterally. Sitting root test, Faber, Patrick's tests were negative. The physician felt the patient had not reached maximum medical improvement and also felt he was a surgical candidate as recommended by Dr. Sazy.

The 8/18/04 EMG/NCV documented subacute left L4 radiculopathy. The 9/28/04 discogram/CT demonstrated that at L3-4 and L4-5 there was no concordant pain. At L4-5 there was suggestion of an annular tear. At L5-S1 there was initial non-concordant pain and a full thickness annular tear with leakage.

Chiropractic treatment continued from 8/04 into 12/04 again with no significant improvement. The patient was seen by Dr. Casey, anesthesia, on 12/7/04 for pain reported as 7/10. Motion of the lumbar spine remained limited. Dr. Casey reported that straight leg raise was bilaterally positive at 20 degrees. Reflexes were 5+/5. He recommended an interferential unit, therapy and Celebrex and noted that the patient was awaiting surgical approval. This had been denied per the case notes.

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Questions for Review:

Please address prospective medical necessity of the proposed lumbar transforaminal lateral interbody fusion regarding the above-mentioned injured worker.

Explanation of Findings:

The proposed lumbar transforaminal lateral interbody fusion at L5-S1 is not medically necessary for this patient. There is no evidence of any spinal instability. There is mild evidence with EMG/NCV of a subacute left L4 radiculopathy, but there are no physical findings that would correspond with this radiculopathy. The patient had a discography in 9/04 with no concordant pain. There was evidence of a full thickness annular tear at L5-S1 with leakage, but again no evidence of any spinal instability.

Conclusion/Decision to Not Certify:

In summary, this patient has primarily discogenic pain with some mild radicular component with some radiculopathy, but there is absolutely no evidence of spinal instability. There is no suggestion that a decompression of the L5-S1 nerve with discectomy would cause increased instability in the spine, and consequently the lumbar fusion is not considered to be medically necessary. Fusions have not been proven to be effective for discogenic pain and are currently not indicated in the absence of evidence of spinal instability, which this patient clearly does not have.

References Used in Support of Decision:

Orthopaedic Knowledge Update Spine 2; pages 333-342

Pellise, F. Reliability of Retrospective Clinical Data to Evaluate the Effectiveness of Lumbar Fusion for Chronic Low Back Pain. Spine. 2005 February 1; 30(3): 365-368

The physician providing this review is board certified in Orthopaedic Surgery. The reviewer is a member of the American Academy of Orthopaedic Surgeons, the American Medical Association, the North American Spine Society, the Pennsylvania Medical Society, the Pennsylvania Orthopaedic Society, the American Association for Hand Surgery and is certified in impairment rating evaluations through the Bureau of Worker's Compensation. The reviewer has publication experience within their field of specialty and has been in private practice since 1995.

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.

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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: Requestor and Respondent