

February 17, 2005

TEXAS WORKERS COMP. COMISSION  
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-0805-01

CLIENT TRACKING NUMBER: M2-05-0805-01 / 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 from the State:

1. Notification of IRO assignment dated 2/4/05, 1 page
2. Letter from TWCC dated 2/4/05, 1 page
3. Medical dispute resolution request/response form, date stamp for receipt from requestor dated 12/31/04, 3 pages
4. Letter from Liberty Mutual dated 1/20/05, 1 page

Records Received from the Insurance Company:

1. Letter from Liberty Mutual dated 1/20/05, 2 pages
2. Peer review report dated 11/18/04, 3 pages

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3. Peer review analysis dated 12/17/04, 4 pages
4. Fax coversheet from Dr. Ward's office dated 11/11/04, 1 page
5. Precert authorization request dated 11/11/04, 1 page
6. Letter from Dr. Ward dated 11/9/04, 1 page
7. Letter from Dr. Ward dated 9/3/04, 2 pages
8. Office consultation report dated 5/11/04, 2 pages
9. CT report dated 5/11/04, 2 pages
10. Facsimile transmittal form dated 11/16/04, 1 page
11. Texas Workers' Compensation work status report dated 7/29/04, 1 page
12. Office report dated 7/29/04, 10 pages
13. Fax coversheet from Dr. Ward's office dated 2/13/04, 1 page
14. Precert authorization request dated 12/13/04, 1 page
15. Office consultation report dated 8/24/04, 2 pages
16. CT report dated 8/24/04, 3 pages
17. CT report dated 7/6/04, 4 pages
18. Office consultation report dated 7/6/04, 2 pages
19. Letter from Dr. Ward dated 9/3/04, 2 pages
20. Letter from TWCC dated 1/20/05

Records from the Provider:

1. Letter from Center of Neurological Disorders, PA, undated, 1 page
2. MRI report dated 1/22/96, 2 pages
3. Office report dated 10/2/96, 2 pages
4. Chest x-ray report dated 10/29/96, 1 page
5. CT report dated 10/30/96, 1 page
6. CT report dated 10/30/96, 1 page
7. Discharge summary dated 10/30/96, 1 page
8. Procedure note dated 10/30/96, 1 page
9. Myelogram report dated 10/30/96, 2 pages
10. CT report dated 10/30/96, 2 pages
11. Letter from Dr. Ward dated 11/4/96, 1 page
12. Electromyography lab report dated 1/29/97, 2 pages
13. Letter from Dr. Ward dated 2/12/97, 1 page
14. Letter from Dr. Ward dated 3/27/97, 1 page
15. Letter from Dr. Ward dated 4/10/97, 1 page
16. X-ray report dated 7/16/97, 1 page
17. X-ray report dated 7/16/97, 1 page
18. Immunohematology report dated 7/16/97, 1 page
19. X-ray report dated 7/16/97, 1 page
20. X-ray report dated 7/16/97, 1 page
21. Surgical pathology report dated 7/18/97, 1 page
22. Operative report dated 7/17/97, 2 pages
23. Letter from Dr. Ward dated 7/31/97, 1 page
24. Letter from Dr. Ward dated 9/17/97, 1 page
25. Letter from Dr. Ward dated 2/12/98, 1 page

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26. Office report dated 10/19/98, 2 pages
27. MRI report dated 11/18/98, 1 page
28. Letter from Dr. Ward dated 11/30/98, 1 page
29. Letter from Dr. Ward dated 5/6/99, 1 page
30. MRI report dated 5/21/99, 2 pages
31. Letter from Dr. Ward dated 6/11/99, 1 page
32. Myelogram report dated 6/17/99, 2 pages
33. Myelogram report dated 6/17/99, 2 pages
34. Procedure report dated 6/17/99, 1 page
35. Discharge summary dated 6/17/99, 1 page
36. Lab reports dated 6/17/99 and 1/31/00, 15 pages
37. Letter from Dr. Ward dated 6/24/99, 1 page
38. Letter from Dr. Ward dated 9/22/99, 1 page
39. Radiology report dated 2/1/00, 1 page
40. ECG report dated 1/31/00, 1 page
41. Radiology report dated 2/1/00, 1 page
42. Pathology report dated 1/31/00, 1 page
43. Operative report dated 2/9/00, 2 pages
44. Radiology report dated 2/9/00, 2 pages
45. Letter from Dr. Ward dated 2/22/00, 1 page
46. Letter from Dr. Ward dated 3/28/00, 1 page
47. Letter from Dr. Ward dated 6/13/00, 1 page
48. Corrected MRI report dated 6/23/03, 2 pages
49. MRI report dated 6/24/03, 2 pages
50. EMG/NCV report dated 8/13/03, 2 pages
51. Myelogram report dated 5/11/04, 2 pages
52. CT report dated 5/11/04, 2 pages
53. Radiology report dated 5/11/04, 1 page
54. Conscious sedation report dated 5/11/04, 1 page
55. MRI report dated 6/24/04, 2 pages
56. Myelogram report dated 7/6/04, 2 pages
57. CT report dated 5/11/04, 2 pages
58. Conscious sedation report dated 7/6/04, 2 pages
59. CT report dated 7/6/04, 2 pages
60. Radiology final report dated 2/17/03, 2 pages
61. Radiology report dated 3/24/04, 1 page
62. Myelogram report dated 5/11/04, 2 pages
63. CT report dated 5/11/04, 2 pages
64. Radiology report dated 5/11/04, 1 page
65. Conscious sedation report dated 5/11/04, 1 page
66. MRI report dated 6/24/04, 3 pages
67. CT report dated 7/6/04, 1 page
68. Conscious sedation report dated 7/6/04, 1 page
69. Radiology report dated 7/6/04, 2 pages
70. Myelogram report dated 7/6/04, 1 page

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71. Discogram report dated 8/24/04, 2 pages
72. CT report dated 8/24/04, 1 page
73. Radiology report dated 8/24/04, 1 page
74. Conscious sedation report dated 8/24/04, 1 page
75. Letter from Dr. Ward dated 9/3/04, 2 pages
76. Letter from Dr. Ward dated 11/9/04, 1 page
77. Letter from Dr. Ward dated 11/9/04, 1 page

**Summary of Treatment/Case History:**

By history, the patient is a 52-year-old female who sustained a work-related injury in \_\_\_\_, and underwent an L4-L5 discectomy in 1997 and an L4-L5 laminectomy in 2000 by Dr. Greg Ward. She was placed at MMI from this surgery on 3/24/04, with a 10% whole person impairment rating performed by Dr. John Wynn. She has not returned to work, and has continued to have problems with low back pain, and pain radiating into the anterior thighs, also with documentation of some pain into the ball of the right foot. She also has chronic cervical and shoulder girdle pain with hand paresthesias, and also describes problems with stress incontinence and urinary frequency. In the spring of 2004 the patient's back pain began to increase, and she was again reevaluated by Dr. Ward. Work up by CT myelogram in 5/04 shows evidence of a 2 mm disc bulge that effaces, but not indents the thecal sac at L3-L4, with ligamentum flavum hypertrophy and facet joint hypertrophy leading to some canal narrowing and lateral recess stenosis.

There is no description of the patient having any associated neurogenic claudication. On myelography she has evidence of an L4-L5 left foraminal stenosis, facet hypertrophy, and evidence of a prior bilateral laminectomy. At L5-S1 she is noted to have a right foraminal stenosis and facet hypertrophy, right greater than left. Notes from Dr. Ward indicate that the patient has probable mechanical back pain, although there are no focal neurologic findings on exam. There are no diagnostic findings localizing her pain to a specific level. She also has an L4-L5, L5-S1 discogram that is concordant for pain.

The patient also has a cervical myelogram showing degenerative changes from C4 to C7, more advanced at C5-C6, C6-C7 with some foraminal stenosis. Lumbar myelogram also conducted in 5/04 shows an L3-L4 moderate-sized extradural defect anteriorly with spinal canal narrowing posteriorly and L4-L5 degenerative changes and facet hypertrophy with L5-S1 facet hypertrophy, and evidence of a prior L4-L5 bilateral laminectomy. Physical findings documented in 7/04 during a second opinion exam show no focal neurovascular deficits or any active ongoing exercise or conditioning program. The patient has an FCE placing her at the sedentary level, and it is also stated that she perceives herself as severely disabled.

**Questions for Review:**

Please address prospective medical necessity of the proposed back surgery (L3/L4 laminectomy with posterior lateral fusion L3 to S1) with inpatient hospitalization of two days, regarding the above-mentioned injured worker.

**Explanation of Findings:**

The literature on multiple-level spinal fusion surgery on a previously unoperated spine is questionable

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for long-term functional success. Potential outcome will be poorer in this patient due to previous spine surgery, the absence of a consistent pain generator, no evidence of focal instability, this being an alleged Workers Compensation case aggravation, poor physical conditioning and self perceived disability. Attempts were made to diagnose an anatomic source of pain, but these are lacking as are documented instability, MRI evidence of disease, and concordant diskography all at a single level. Additionally, there is no good faith course and failure of conservative care and functional restoration. Based on the supplied medical records and evidence-based medical literature, this 52-year-old female is not an optimal surgical candidate for the requested procedure. She has several spinal abnormalities from L3 to S1 as evidenced by the CT, CT myelogram, plain films, and discogram findings. None of the records link any of those findings to consistent physical exam findings that warrant this degree of surgery in a patient who has already had a previous laminectomy. While Ms. \_\_\_ does have evidence of stenosis at L3-L4, and positive discogram findings at L4-5, L5-S1 with evidence of degenerative changes more severe at L5-S1, but also present at L4-L5 and at L3-L4, there is neither documented spinal instability nor symptoms of neurogenic claudication. Further, it is noted in the medical records that the patient most likely has mechanical low back pain.

**Conclusion/Decision to Not Certify:**

The proposed procedure is not certified as medically necessary.

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

1. Diedrich, O. [Author, Reprint Author; E-mail: mail@drdiedrich.de]; Lueling, C. [Author]; Pennekamp, P. H. [Author]; Perlick, L. [Author]; Wallny, T. [Author]; Kraft, C. N. [Author]. Effect of posterior lumbar interbody fusion on the lumbar sagittal spinal profile. [Article] Zeitschrift Fuer Orthopaedie und Ihre Grenzgebiete. 141(4). Juli-August 2003. 425-432.
2. Miura, Yasushi [Author, Reprint Author; E-mail: ymtyhs@aol.com]; Imagama, Shiro [Author]; Yoda, Masaki [Author]; Mitsuguchi, Hideyuki [Author]; Kachi, Hiroaki [Author]. Is local bone viable as a source of bone graft in posterior lumbar interbody fusion? [Article] Spine. 28(20). October 15, 2003. 2386-2389.
3. Kanayama, Masahiro [Author, Reprint Author; E-mail: mkanayama@aol.com]; Hashimoto, Tomoyuki [Author]; Shigenobu, Keiichi [Author]; Oha, Fumihiro [Author]; Ishida, Takashi [Author]; Yamane, Shigeru [Author]. Intraoperative biomechanical assessment of lumbar spinal instability: Validation of radiographic parameters indicating anterior column support in lumbar spinal fusion. [Article] Spine. 28(20). October 15, 2003. 2368-2372.
4. McAfee, Paul C. [Author, Reprint Author; E-mail: MACK8132@aol.com]; Polly, David W. Jr. [Author]; Cunningham, Bryan [Author]; Gaines, Bob [Author]; Hallab, Nadim [Author]; Lubicky, John [Author]; Lenke, Larry [Author]; Bridwell, Keith [Author]. Clinical summary statement. [Article] Spine. 28(20S). October 15, 2003. S196-S198.

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5. Yu, Bin-Sheng [Author, Reprint Author]. Biomechanical comparison of the posterolateral fusion and posterior lumbar interbody fusion using pedicle screw fixation system for unstable lumbar spine. [Article] *Hokkaido Journal of Medical Science*. 78(3). May 2003. 211-218
6. Asazuma, T. [Author, Reprint Author; E-mail: asayan@me.ndmc.ac.jp]; Nobuta, M. [Author]; Sato, M. [Author]; Yamagishi, M. [Author]; Fujikawa, K. [Author]. Lumbar disc herniation associated with separation of the posterior ring apophysis: Analysis of five surgical cases and review of the literature. [Article] *Acta Neurochirurgica*. 145(6). June 2003. 461-466.
7. Sudo, Hideki [Author, Reprint Author; E-mail: hidekisudo@yahoo.co.jp]; Oda, Itaru [Author]; Abumi, Kuniyoshi [Author]; Ito, Manabu [Author]; Kotani, Yoshihisa [Author]; Hojo, Yoshihiro [Author]; Minami, Akio [Author]. In vitro biomechanical effects of reconstruction on adjacent motion segment: Comparison of aligned/kyphotic posterolateral fusion with aligned posterior lumbar interbody fusion/posterolateral fusion. [Article] *Journal of Neurosurgery*. 99(2 Supplement). September 2003. 221-228.
8. La Rosa, Giovanni [Author]; Conti, Alfredo [Author, Reprint Author; E-mail: gntco@tin.it]; Cacciola, Fabio [Author]; Cardali, Salvatore [Author]; La Torre, Domenico [Author]; Gambadauro, Nicola Maria [Author]; Tomasello, Francesco [Author]. Pedicle screw fixation for isthmic spondylolisthesis: Does posterior lumbar interbody fusion improve outcome over posterolateral fusion? [Article] *Journal of Neurosurgery*. 99(2 Supplement). September 2003. 143-150.

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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.

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.

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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 MRloA 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 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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