

March 15, 2005

TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-0899-01

CLIENT TRACKING NUMBER: M2-05-0899-01 / 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:

Notice of IRO Assignment dated 3/1/05, 4 pages

Notice of Utilization Review Findings from Forte dated 12/22/04, 2 pages

Notice of Utilization Review Findings from Forte dated 1/20/05, 2 pages

RECORDS RECEIVED FROM THE REQUESTOR:

History and Exam from Ortho Rehab Associates dated 3/18/04, 7 pages

Chart Notes from Ortho Rehab Associates dated 4/20/04, 6/8/04 and 7/6/04, 3 pages

RS Medical Prescription dated 6/14/04, 1 page

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Letter of Medical Necessity from Dr. George Wharton dated 7/30/04, 1 page
Chart Notes from Ortho Rehab Associates dated 8/3/04, 9/2/04, 9/28/04, 4 pages
RS medical Interferential/Muscle Stimulator Patient Progress Note dated 8/6/04, 1 page
RS Medical Prescription dated 8/17/04, 1 page
Letter from ___ dated 10/15/04, 1 page
RS Medical Patient usage report dated 6/14/04–6/30/04, 2 pages
RS Medical Patient usage report dated 7/1/04–7/30/04, 2 pages
RS Medical Patient usage report dated 8/1/04–8/31/04, 2 pages
RS Medical Patient usage report dated 9/1/04–9/30/04, 2 pages
RS Medical Patient usage report dated 10/1/04–10/14/04, 2 pages

RECORDS FROM THE TREATING PROVIDER:

Chart Notes from Ortho Rehab Associates dated 12/7/04, 1/20/05, 2/10/05, 4 pages
Roentgenographic Interpretation on 12/7/04 from Ortho Rehab Associates, 1 page
Chart Notes from Ortho Rehab Associates dated 4/20/04, 4/22/04, 6/8/04, 7/6/04, 8/3/04, 9/2/04, 9/28/04, 10/19/04, 11/4/04, 11/18/04, 12 pages
TWCC Work Status Report dated 4/22/04, 1 page
History and Exam from Ortho Rehab Associates dated 3/18/04, 7 pages
Metropolitan Radiology report dated 2/25/05, 2 pages
EMG report dated 3/31/04, 4 pages
Mesquite Open MRI report dated 3/4/04, 2 pages
2nd Copy of EMG report dated 3/31/04, 4 pages
2nd Copy of Mesquite Open MRI report dated 3/4/04, 2 pages
RS Medical Patient usage report dated 10/1/04–10/14/04, 1 page
RS Medical Patient usage report dated 9/1/04–9/30/04, 1 page
RS Medical Patient usage report dated 8/1/04–8/31/04, 1 page
RS Medical Patient usage report dated 7/25/04–7/30/04, 1 page
RS Medical Patient Health Report from 6/17/04 – 7/25/04, 1 page
RS Medical Patient usage report dated 7/1/04–7/25/04, 1 page
RS Medical Patient usage report dated 6/14/04–6/30/04, 1 page
RS Medical Interferential/Muscle Stimulator Patient Progress report dated 8/6/04, 1 page
RS Medical Prescription dated 8/17/04, 1 page
Letter of Medical Necessity from Dr. George Wharton dated 7/30/04, 1 page
RS Medical Prescription dated 6/14/04, 1 page
Prescription from George Wharton MD for Dura–Kold ice pack dated 6/8/04, 1 page

RECORDS RECEIVED FROM THE RESPONDENT:

Letter addressed to MRloA from Flahive, Ogden & Latson dated 3/8/05, 2 pages
Summary of Carrier Position from Flahive, Ogden & Latson dated 2/25/05, 2 pages
TWCC–60 dated 2/18/05, 3 pages
Notice of Utilization Review Findings from Forte dated 12/22/04, 2 pages
Notice of Utilization Review Findings from Forte dated 1/20/05, 2 pages
CMS Medicare Coverage Database article for NMES printed 3/3/04, 3 pages
CMS Medicare Coverage Database article for Neuromuscular Stimulators printed 12/14/03, 4 pages

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Non-covered Services – Z-14B-R1, undated, 7 pages
ACOEM guidelines printed 8/24/04 – selected pages – 14 pages
Philadelphia Panel Evidence-Based Clinical Practice Guidelines on Selected Rehab Interventions for Low Back Pain article printed 1/16/04, 44 pages
Interferential Therapy article printed 10/24/03, 16 pages
Article printed from PTGlobal.net, 11 pages
WebMD article, 1 page
The Regence Group Medical Policy printed 7/16/03, 6 pages
Various Independent Reviews with names blacked out, several dates, 45 pages
Chart notes dated 2/10/05, 1/20/05, 2/10/05, from Ortho Rehab Associates, 3 pages
Metropolitan Radiology report dated 2/25/05, 3 pages
Notice of Utilization Review Findings from Forte dated 2/18/05, 2 pages
Notice of Utilization Review Findings from Forte dated 2/7/05, 2 pages
TWCC-69, 2 pages
Report of Medical Evaluation from Churchill dated 9/16/04, 8 pages
TWCC-69 reports, 2 pages
EMG and MRI reports dated 3/4/04, 3/31/04, 6 pages
Notice of Utilization Review Findings from Forte dated 12/22/04, 2 pages
Notice of Utilization Review Findings from Forte dated 12/14/04, 2 pages
Acknowledgement of Reconsideration Request from Forte dated 12/21/04, 1 page
Appeal Procedure, 1 page
Chart notes, 12/7/04, 1/6/05, 1/20/05, 5 pages
Notice to change treating providers, dated 11/22/04, 1 page
Chart notes, 4/20/04, 6/8/04, 7/6/04, 8/3/04, 9/2/04, 8/24/04, 9/28/04, 10/19/04, 11/4/04, 11/18/04, 13 pages
Notice of Utilization Review Findings from Forte dated 9/27/04, 2 pages
Notice of Utilization Review Findings from Forte dated 9/17/04, 2 pages
RS Medical Purchase Agreement dated 6/14/04, 2 pages
Office note from Terry Gemas, MD dated 7/27/04, 3/8/04, 3/1/04, 4 pages
TWCC Work Status Report dated 4/22/04, 1 page
TWCC Work Status Report dated 6/03/04, 1 page
History and Exam from Ortho Rehab Associates dated 3/18/04, 7 pages
Dallas Bone and Joint Clinic office note dated 1/26/04, 2 pages
Presbyterian Hospital of Dallas Emergency Department Order Sheet dated 1/19/04, 10 pages

Summary of Treatment/Case History:

The question to be answered is there a medical necessity for purchase of an RS-4i Sequential 4 channel combination Inferential and Muscle Stimulator?

The claimant is a 39 year old male who was carrying carpet up some stairs in the rain when he turned and hit a brick wall, injuring his back. He was initially treated at Presbyterian Hospital in Dallas. He has been under the care of Dr. Wharton. His complaints include numbness in the Right leg, pain down the Right to the heel, and lumbosacral region pain which is worse with activity. He has undergone a course of physical therapy and has been using an RS-4i Stimulator which has provided pain relief to some degree.

Page 4

His Physical examination by Dr. Wharton on 3/18/04 noted tenderness in the cervical and mid lumbar region, decreased range of motion in the cervical and dorsolumbar regions, 5/5 strength in the upper and lower extremities, except for 4/5 in the Right finger extensors, and negative straight leg raising. The MRI of the lumbosacral region on 3/4/04 was read as revealing at L2-3 a small posterolateral disc protrusion without neural impingement, at L3-4 a mild diffuse disc bulge without neural impingement, and at L4-5 a broad-based posterolateral disc protrusion with impingement on the Left L4 nerve root. Dr. Wharton has stated on 7/30/04 that "due to the success of the trial period to reduce pain and restore muscle function, I am prescribing the RS-4i for indefinite use by the patient".

Questions for Review:

1. Medical necessity for purchase of a RS4i Sequential 4 channel combination Interferential and Muscle Stimulator.

Conclusion/Decision to Not Certify:

The requested purchase of an RS-4i Stimulator is not certified as medically necessary or appropriate for the chronic treatment of the claimant's low back pain.

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

There is no evidence that the RS-4i Stimulator is anything other than a muscle stimulator.

There is no convincing clinical research to prove the efficacy of this modality over more traditional treatments in relieving low back pain and restoring function.

Interferential electrical stimulation is most effective when used during the acute phase of rehabilitation and is of little benefit when used alone.

References Used in Support of Decision:

Low Back Pain Handbook by Jeffrey L. Young, M.D., 1997

The physician providing this review is board certified in Orthopedic Surgery. The reviewer also holds additional certifications from the National Board of Medical Examiners, the American Board of Orthopedic Surgery and their state Workers Compensation Commission. Professional Society memberships include the American Society for Laser Medicine and Surgery and the American College of Sports Medicine. The reviewer currently serves as an instructor in the department of surgery, division of orthopedics at a major medical teaching institution as well as participating in private practice. The reviewer has been in active practice since 1975.

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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 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

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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