

March 29, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-1064-01

CLIENT TRACKING NUMBER: M2-05-1064-01-5278

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:

Notification of IRO assignment dated 3/7/05, 11 pages

RECORDS RECEIVED FROM WEST U REHAB RECEIVED VIA FAX:

Table of contents

Diagnostic Interpretation from North Houston Imaging Center dated 7/17/02, 1 page

Amended designated doctor evaluation from Laila N. Hirjee, MD dated 8/1/03, 6 pages

TWCC-69 report of medical evaluation dated 9/24/03, 1 page

Impairment rating report, undated, 1 page

Designated doctor evaluation dated 5/11/04, 8 pages

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Letter from Western Medical Evaluators addressed to ___ dated 12/28/04, 1 page
TWCC-69 report of medical evaluation dated 5/13/04, 1 page
Impairment rating report, undated, 1 page
Clinical report from West U Rehab dated 11/9/04, 2 page
Individual Therapy notes dated 12/2/04, 12/6/04, 12/13/04, 12/20/04, 1/7/05, 1/4/05
Clinical report from Elizabeth Pease, LCSW dated 1/4/05, 4 pages
Clinical report from Steven D. Thompson, MD dated 1/12/05, 1 page
Designated Doctor Evaluation from Howard Hood MD dated 1/14/05, 7 pages
Report of Medical evaluation dated 1/14/05, 4 pages
TWCC-69 report of medical evaluation, dated 1/14/05, 1 page
Letter of medical necessity from Reyna Moore, DC dated 2/14/05, 2 pages
Psychological Evaluation from Steven DeAlmeida, DPH, EdD dated 3/2/05, 8 pages
Outpatient consult form, unreadable, 1 page
Emergency room discharge record from Harris County Hospital, unreadable, 2 pages
Determination of payment of unemployment benefits dated 6/6/04, 1 page
Office note dated 7/24/02, 9/16/02, 4 pages
Orthopedic report from Kenneth Berliner MD dated 4/13/04, 2 pages
Initial medical examination dated 6/25/02,

RECORDS RECEIVED FROM WEST U REHAB RECEIVED VIA MAIL/HARDCOPY:

Duplicates of the records received via fax from West U Rehab

RECORDS RECEIVED FROM FLAHEVE, OGDEN & LATSON:

Summary of carrier's position letter dated 1/3/05, 4 pages
TWCC-60 Medical Dispute Resolution Request/Response, 10 pages
Texas UR Adverse Determination Notification from Bunch & Assoc, dated 1/10/05, 3 pages
Letter from Bunch & Assoc dated 1/26/05, 2 pages
Preauthorization letter dated 1/31/05, 1 page
Letter from Eng's Pharmacy dated 2/3/05, 1 page
Prescription from Lonestar orthopedics dated 6/7/04, 1 page
Initial Medical Exam from Scott Neuburger, DC dated 6/25/02, 2 pages
Diagnostic Interpretation from North Houston Imaging Center dated 7/17/02, 1 page
Office note dated 8/2/02, 9/16/02, 3 pages
North Houston Imaging Center Imaging report dated 8/15/02, 2 pages
River Oaks MRI Lumbar Spine & Cervical Spine reports dated 9/24/03, 4 pages
Letter from The Medical Equation, Inc dated 11/13/03, 2 pages
Report from Concentra Integrated Services dated 1/7/04, 1 page
Letter from Charles F. Xeller, MD dated 1/23/04, 5 pages
Orthopedic Report from Lonestar Orthopedics dated 4/13/04, 3 pages
Universal Medical Electromyography report dated 5/13/04, 5 pages
Testing Script from Laila Hirjee, MD dated 9/2/03, 1 page
Designated Doctor Eval from Howard Hood III, MD dated 5/11/04, 11 pages
Follow up visit from Pain Management Consultants dated 6/1/04, 1 page
TWCC work status report dated 6/1/04, 1 page

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Intracorp Aramark Progree Report dated 5/25/04–6/22/04, 5 pages
Forte Peer Review Referral Form dated 8/5, 1 page
Letter from Forte dated 8/13/04, 3 pages
Letter from Eng Pharmacy dated 8/18/04, 1 page
Orthopedic report from Lonestar Orthopedics dated 8/17/04, 3 pages
Letter from Eng Pharmacy dated 8/24/04, 1 page
Orthopedic report from Lonestar Orthopedics dated 9/7/04, 3 pages
Request for reconsideration from UME dated 9/10/04, 1 page
Letter of medical necessity from Pain Management Consultants, 1 page
Investigation Report from Veracity Research Co. various dates, 14 pages
Request for reconsideration from Working Rx dated 9/29/04, 1 page
Letter from Kristie Trevino reminding ___ of appt with Brian C. Buck, MD dated 10/27/04, 1 page
Letter from Lonestar Orthopedics dated 11/1/04, 1 page
Request to change treating doctors form dated 11/3/04, 1 page
TWCC work status report dated 11/10/04, 1 page
Letter from Brian C. Buck, MD dated 11/10/04, 5 pages
Mental health Evaluation from West U Rehab dated 11/12/04, 3 pages
Preauth request from West U Rehab dated 11/17/04, 1 page
Letter from Howard Hood MD dated 11/23/04, 1 page
Individual Therapy note from West U Rehab dated 12/2/04, 12/6/04, 12/13/04, 12/20/04, 1/3/05, 1/4/05, 1/7/05, 7 pages
Medical Management Assessment from West U Rehab dated 12/6/04, 1 page
Initial Consultation from Gilbert Mayorga MD dated 12/13/04, 5 pages
Medical Management Follow up dated 12/13/04, 1/3/05 2 page
Letter from West U Rehab dated 1/4/05, 4 pages
Letter from Bunch & Associates dated 1/7/05, 1 page
Office note from Steven Thompson, MD dated 1/12/05, 1 page
TWCC work status report dated 1/12/05, 1/18/05, 2 pages
Letter from Robert E. Whitsell MD dated 1/26/05, 6 pages
Concentra report dated 1/26/05, 2 pages
Fax Coversheet request for reconsideration from Eng Pharmacy dated 8/23/04, 1 page
TWCC letter dated 7/8/03, 12/23/04, 2 page
Trailblazer Medicare Online Fee Schedule, undated, 7 pages
TWCC Advisory 2004–06, 1 page
Medical Equation Inc file pick up sheet, 2 pages
Request for payment from Eng Pharmacy dated 2/2/05, 1 page

Summary of Treatment/Case History:

Patient underwent X-rays; multiple MRIs; extensive physical medicine treatments; epidural steroid injections; EMG/NCV; and surgery after falling at work on ___ when he slipped on a floor degreaser.

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Questions for Review:

1. Is the proposed chronic pain management program X 30 sessions medically necessary to treat this patient's injury?

Explanation of Findings:

1. Is the proposed chronic pain management program X 30 sessions medically necessary to treat this patient's injury?

No.

Rationale: In the preamble of the Texas Workers Compensation Commission's amendments to rule 134.600, the Commission states as follows: "Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers' compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop." In its report to the legislature, the Research and Oversight Council on Texas Workers' Compensation explained its higher costs compared to other health care delivery systems by stating, "Additional differences between Texas workers' compensation and Texas group health systems also widen the cost gap. These differences include...in the case of workers' compensation, the inclusion of costly and questionable medical services (e.g., work hardening/conditioning.)" In this case, the provider's proposed chronic pain management program is just the type of questionable services of which the TWCC and the legislature spoke when expressing concern in regard to medically unnecessary treatments that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs.

On the most basic level, the provider has failed to establish why the proposed services are medically necessary when current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises. There is also no strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care."

More importantly, the previously attempted and extensive physical medicine treatments (from at least 03/23/04 through 08/13/04) and the six psychological sessions (from 12/02/04 through 01/07/05) had within them the self-help strategies, coping mechanisms, exercises and modalities that are inherent in and central to the proposed chronic pain management program. In other words and for all practical purposes, much of the proposed program has already been attempted and failed. Therefore, since the patient is not likely to benefit in any meaningful way from repeating unsuccessful treatments, the proposed chronic pain management program is medically unnecessary.

Conclusion/Decision to Not Certify:

The proposed chronic pain management program is medically unnecessary.

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References Used in Support of Decision:

26 Tex. Reg. 9874 (2001)

“Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers’ Compensation System,” Research and Oversight Council on Workers’ Compensation, Report to the 77th Legislature, page 6.

Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has written numerous publications and given several presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty-five years.

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.

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

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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