

April 29, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M2-05-1447-01

CLIENT TRACKING NUMBER: M2-05-1447-01 /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:

Notification of IRO Assignment dated 4/19/05 1 page
Texas Workers Compensation Commission Form dated 4/19/05 1 page
Medical Dispute Resolution Request/Response Form 1 page
Provider sheet 1 page
Table of disputed services 1 page
Letter from Liberty Mutual Group dated 3/10/05 1 page
Letter from Liberty Mutual Group dated 2/22/05 1 page

(continued)

Records From The Provider:

Chart notes dated 3/3/05 1 page
Chart notes dated 12/30/04 1 page
Chart notes dated 9/23/04 3 pages
History and Physical dated 1/26/05 1 page
Radiology report dated 1/26/05 1 page
Radiology report dated 1/26/05 2 pages
Radiology report dated 1/26/05 1 page
Lumbar spine MRI report dated 7/26/04 2 pages
Operative report dated 12/8/04 2 pages
Operative report dated 11/17/04 2 pages
Consultation notes dated 10/11/04 2 pages
EMG/NCV report dated 8/6/04 4 pages

From The Respondent:

Texas Workers Compensation Commission Form dated 4/19/05 1 page
Letter from Liberty Mutual Group dated 4/12/05 3 pages
Pre-Authorization from Professional Reviews dated 2/22/05 3 pages
Appeal from Professional Reviews dated 3/9/05 4 pages
Preauthorization request dated 2/11/05 1 page
Chart notes dated 12/30/04 1 page
Chart notes dated 9/23/04 3 pages
Chart notes dated 9/23/04 1 page
Radiology report dated 1/26/05 2 pages
Radiology report dated 1/26/05 1 page
Lumbar Spine MRI report dated 1/26/04 2 pages
Operative report dated 12/8/04 2 pages
Operative report dated 11/17/04 2 pages
Consultation notes dated 10/11/04 2 pages
EMG/NCV report dated 8/6/04 4 pages
History and Physical dated 1/26/05 2 pages
Preauthorization request dated 3/4/05 1 page
Request for reconsideration dated 3/3/05 1 page
Chart notes dated 3/3/05 1 page
Chart notes dated 12/30/04 1 page
Chart notes dated 9/23/04 3 pages
History and Physical dated 1/26/05 1 page
Radiology report dated 1/26/05 1 page
Radiology report dated 1/26/05 2 pages
Radiology report dated 1/26/05 1 page
Lumbar Spine MRI report dated 7/26/04 2 pages
Operative report dated 12/8/04 2 pages
Operative report dated 11/17/04 2 pages
EMG/NCV report dated 8/6/04 4 pages
Medical Dispute Resolution Request Response 1 page
Provider sheet 1 page

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Table of disputed services 1 page

Copy of check from Liberty Mutual dated 4/2/05 1 page

Texas Workers Compensation Commission Form dated 4/6/05 1 page

Summary of Treatment/Case History:

The claimant is a 52-year-old male injured on ___ with a reported low back injury. On 7/26/04 the claimant underwent an MRI of the lumbar spine that showed degenerative disc disease. At level L4-5 there was a mild posterior disc bulge with mild to moderate bilateral neuroforaminal narrowing. At level L 5-S1 there was a mild posterior disc bulge with a 3mm disc protrusion with a moderate bilateral neuroforamina narrowing without spinal stenosis. On 8/6/04 the claimant underwent an EMG study to his lower extremities that showed mild chronic left L5-S1 radiculopathy.

On the 9/23/04 office visit with Dr. Sazy, the claimant reported he was unable to work due to low back pain. On exam, there was a normal gait with decreased range of motion. The claimant was able to heel toe walk without difficulty. There was a slight decrease in sensation in the left lower extremity with decreased patellar and Achilles reflexes on the left; the straight leg raises were negative. Dr. Sazy noted the diagnosis as horizontal pelvis with mechanical back pain secondary to facet arthritis and herniated nucleus pulposus with S1 root contact with radiculopathy. He recommended epidural injection to left L 5- S1 facet joints along with physical therapy after the epidural injections. As per the notes, the claimant underwent a series of three epidural nerve blocks.

On the 12/30/04 office visit with Dr. Sazy, the claimant reported the epidurals and physical therapy did not help much. Dr. Sazy noted the diagnosis was unchanged and recommend discography and to continue the current medications. He suggested a cardiac evaluation and weight reduction for the claimant.

On 1/26/05, the claimant underwent a CT discogram of the lumbar spine that showed an abnormal disc annulus complex with a left lateral grade 3 radial tear to left lateral posterior annulus, demonstrated at the L3-4 and L4-5 levels. At these levels the pain was consistent with the usual low back pain radiating to the left lower extremity. At L5-S1 there was a transitional disc that showed diffusion of contrast, which would be compatible with degenerative disc changes.

The claimant's diagnosis was noted as discogenic pain at L3-4 and L4-5, rudimentary L5-S1 disc and sacralized L5 vertebra. The physician recommended a lumbar transforminal lateral interbody fusion at L3-4, L4-5, L5-S1 and cardiac evaluation for the claimant.

On 3/19/05 Dr. Sazy submitted a letter for request for re-consideration, as he did not agree with the denial as the claimant has nerve root dysfunction and positive EMG studies.

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Questions for Review:

1. Please address prospective medical necessity of the proposed approval for lumbar transforaminal lateral interbody fusion at L3-4, L4-5, L5-S1 and cardiac evaluation, regarding the above mentioned injured worker.

Explanation of Findings:

Review of the records includes an MRI from 07/26/04 that showed degenerative disc disease at L4-5 and L5-S1 with minimal posterior bulging and mild to moderate bilateral neuro-foraminal narrowing with no evidence of central stenosis and no evidence of disease at L3-4. Epidurals did not help per Dr. Sazy's report of 12/30/04, and a discogram was recommended. X-rays from 01/26/05 showed an otherwise normal lumbar spine with calcific changes in the aorta. A discogram from 01/26/05 showed abnormal disc annulus complexes at L3-4 and L4-5 with concordant pain. There was no documentation of concordant pain at L5-S1. Review of the additional medical records provided and the peer review of 03/09/05 showed that it would not appear to be reasonable nor medically necessary to proceed with a multi-level lateral interbody fusion L3-4, L4-5, and L5-S1 secondary to failure to document any instability, failure to document any evidence of a concordant discogram at L5-S1 or any evidence of significant disc disease at L3-4 and the fact the patient had no response to epidural steroid injections.

Thus, at this time, conservative treatment is recommended based on the medical records provided, the review of the additional records, the appeal.

Conclusion/Decision to Not Certify:

1. Please address prospective medical necessity of the proposed approval for lumbar transforaminal lateral interbody fusion at L3-4, L4-5, L5-S1 and cardiac evaluation, regarding the above mentioned injured worker.

It is not reasonable nor medically necessary to proceed with a multi-level lateral interbody fusion L3-4, L4-5, and L5-S1 secondary to failure to document any instability, failure to document any evidence of a concordant discogram at L5-S1 or any evidence of significant disc disease at L3-4 and the fact the patient had no response to epidural steroid injections.

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

Rothman and Simeone, The Spine, 3rd edition. Page 719.

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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.

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.

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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: John Sazy, MD
Respondent: Liberty Mutual – Toni Evans