

June 2, 2005

TEXAS WORKERS COMP. COMISSION  
AUSTIN, TX 78744-1609

CLAIMANT: \_\_\_  
EMPLOYEE: \_\_\_  
POLICY: M2-05-1522-01 \_\_\_  
CLIENT TRACKING NUMBER: M2-05-1522-01 /5278

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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:**

The records provided on patient \_\_\_ with respect to the coverage for a Laminectomy with decompression at the L4-5 and L5-S1 levels with fusion and a 3 to 4 day hospitalization have been reviewed.

Records from state:

TWCC Notification of IRO Assignment (05/10/05)  
Letter to MRIOA from TWCC (05/10/05)  
Medical Dispute Resolution Request/Response form (04/11/05)  
List of treating providers  
Table of Disputed Services

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CorVel Pre-Authorization Determination (03/10/05)  
Notice of Non-Authorization from CorVel (03/25/05)

Records from respondent:

Letter to Assoc Casualty Insurance Co from TWCC (05/10/05)  
Letter to TWCC from Lisa Robinson, RN/CorVel (05/06/05)  
CorVel Pre-Authorization Determination (03/29/05, 3/10/05)  
MRI of the Cervical and Lumbar Spine (07/08/04)  
Medical Records of D. Wilson, MD (10/06/04, 10/27/04, 12/03/04, 02/07/05)  
Myelogram of the Lumbar Spine (10/21/04)  
Medical Records of P. Osborne, MD with Testing (12/21/04)  
Texas Workers Compensation Status Report (12/21/04)  
CT of the Lumbar Spine (01/10/05)  
Genex Progress Report: Medical Case Management notes (02/17/05)  
Medical Records of S. Pemmaraju, DO (04/25/05)  
WCC-69 Form (04/28/05)  
Correspondence from Quality FCE (04/25/05)

Records from requestor:

Medical Records of D. Wilson, MD (06/16/04, 07/13/04, 08/23/04, 09/15/04, 10/06/04, 10/27/04, 12/03/04, 02/07/05, 02/28/05, 03/29/05)  
Medication list  
EMG/NCS Results (09/12/03)  
MRI Cervical Spine (07/22/03)  
MRI Cervical Spine (07/08/04)  
MRI Lumbar Spine (07/08/04)  
Post-myelogram CT Lumbar spine (10/21/04)  
CT Lumbar spine (01/10/05)  
Medical Records from Harris Methodist Fort Worth Hospital for admission of 08/09/04 for ACDF at C5-6 including pre-operative labs (07/28/04), Preadmission H&P (08/09/04), Chest x-ray (08/09/04), Path report (08/09/04), Operative report (08/09/04), Correspondence from CorVel (07/22/04, 05/05/05), Medical records of C. Farmer, PT of HealthSouth (11/02/04, 12/03/04, 12/07/04) including plan of care (12/4/04), Post ACDF Cervical spine x-ray (09/15/04) and all Surveillance Imaging (21 minutes) included on CD-ROM.

**Summary of Treatment/Case History:**

On 12/21/04, Dr. Osborne noted no strength deficit, sensory deficit and negative straight leg raise in both the sitting and supine positions. She had no evidence of radiculopathy. He noted that the myelogram/post myelogram CT shows a central bulge and some foraminal narrowing at L4-5 but there was no evidence of an L5 radiculopathy. He did not think this claimant is a good surgical candidate. In March 2005, Dr. Diana E Wilson requested preauthorization for a Lumbar Decompressive Laminectomy at L4-5 and L5-S1 with instrumentation and auto graft with a 3-4 day length of stay. The file was referred to Pete Garcia, MD, a board certified spine surgeon for review. All records submitted by the provider were submitted along with the RME dated 12/21/04 by Phillip Osborne, MD. Dr. Garcia reviewed all records and determined that this requested spinal surgery was not medically necessary.  
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His rationale makes reference to Dr. Wilson's note dated Feb 28, 2005, in which she states "I do not recommend considering a fusion due to the fact that spinal alignment is normal, and she is a smoker."

On 03/23/05, a reconsideration request was submitted by Dr. Wilson for a decompressive laminectomy at L4-5 and L5-S1 level, using microsurgical technique with a 3-4 day length of stay. This request was referred to Nicholas Francis Tsourmas, MD a board certified spine surgeon for review. All records submitted by the provider were forwarded to Dr. Tsourmas, along with the RME dated 12/01/04. Dr. Tsourmas reviewed all records and determined that the surgery was not medically necessary. His rationale noted that the MRI from July 2004 was without significant neural compression, the CT/Myelogram from Jan 2005 was without significant neural compression and the clinical findings were not consistent over time. He noted that the patient's neck and back complaints were "diffuse" in nature. He concluded that there was "no evidence of spinal stenosis or clinical findings of nerve compression were supported".

MRI of the Lumbar Spine (07/08/04) documents a 2mm broad-based discs at L2-3 and L3-4 with moderate recess narrowing, moderate canal stenosis at L4-5 with foraminal narrowing and a 4mm broad-based disc, and mild canal stenosis at L5-S1 with moderate foraminal narrowing on the right and severe foraminal narrowing on the left associated with a 6x4mm broad-based irregular disc. Myelogram of the Lumbar Spine (10/21/04) verified these findings specifically at L4-5 and L5-S1. The most significant problem is the absence of a left-sided radiculopathy. Her pain by description is localized to the back. Review of her video was really non-contributory. She at times looks apprehensive when getting into her car. There is nothing to suggest root compromise in her video or exams.

**Questions for Review:**

1. Please address prospective medical necessity of the proposed lumbar decompressive laminectomy L4-5/add level L5-S1 /instrumentation/autograft/microsurgical 2 3-4 LOS, regarding the above mentioned injured worker.

**Explanation of Findings:**

The proposed surgery is not medically necessary. Without evidence of a radiculopathy, there is nothing to suggest the need for decompression and/or fusion. Conservative care is still indicated.

**Conclusion/Decision to Not Certify:**

The proposed surgery is not medically necessary.

**References Used in Support of Decision:**

1. Kumar K. Malik S. Demeria D. Treatment of chronic pain with spinal cord stimulation versus alternative therapies: cost-effectiveness analysis. [Clinical Trial. Journal Article] Neurosurgery. 51(1):106-15; discussion 115-6, 2002 Jul.
2. Ljubicic Bistrovic I. Ljubicic D. Ekl D. Penezic L. Mocenic D. Stancic MF. Influence of depression on patient's satisfaction with the outcome of microsurgical "key-hole" vs classical discectomy: prospective matched-cohort study. [Journal Article] Croatian Medical Journal. 43(6):702-6, 2002 Dec.
3. Richter HP. Kast E. Tomczak R. Besenfelder W. Gaus W. Results of applying ADCON-L gel after lumbar discectomy: the German ADCON-L study. [Clinical Trial. Journal Article. Randomized Controlled Trial] Journal of Neurosurgery. 95(2 Suppl):179-89, 2001 Oct.

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4. Barolat G. Spinal cord stimulation for chronic pain management. [Review] [36 refs] [Journal Article. Review. Review Literature] Archives of Medical Research. 31(3):258-62, 2000 May-Jun.
5. Silver J. Aspects of failed back syndrome: role of litigation.[comment]. [Comment. Letter] Spinal Cord. 38(6):386; discussion 387, 2000 Jun.
6. McLean AN. Failed back syndrome.[comment]. [Comment. Letter] Spinal Cord. 38(6):386; discussion 387, 2000 Jun.
7. Wing PC. Aspects of failed back syndrome: role of litigation. [Letter] Spinal Cord. 38(6):387, 2000 Jun.

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The physician providing this review is board certified in Neurological Surgery (1997). The reviewer has additional certification from the American Board of Pediatric Neurosurgery (1998) 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.

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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Assoc Casualty Insurance Co