June 8, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M2-05-1659-01
CLIENT TRACKING NUMBER: M2-05-1659-01 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 5/18/05, 5 pages
Letter from Liberty Mutual Group/Wausau dated 3/9/05, 1 page
Letter from Liberty Mutual Group/Wausau dated 4/11/05, 1 page

Records received from Dr. Robert Henderson:
Prospective review (M2) information request dated 5/18/05, 1 page
Letter from Liberty Mutual Group/Wausau dated 3/9/05, 1 page
Letter from Liberty Mutual Group/Wausau dated 4/11/05, 1 page
Request for preauthorization for surgery dated 3/1/05, 1 page

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Chart notes dated 1/25/05 through 3/28/05, 4 pages
Lumbar discogram report dated 1/4/05, 3 pages
CT lumbar spine post discrography report dated 1/4/05, 1 page
Preferred open MRI report dated 9/13/04, 2 pages

Records received from Liberty Mutual:
Letter from Texas Workers' Compensation Commission dated 5/18/05, 1 page
Letter from Liberty Mutual Group/Wausau dated 5/4/05, 1 page
Peer review analysis case report for Liberty Mutual dated 3/8/05, 4 pages
Peer review analysis case report for Liberty Mutual dated 4/7/05, 4 pages
Request for preauthorization for surgery dated 3/1/05, 1 page
Chart notes dated 1/25/05 through 3/28/05, 4 pages
Lumbar discogram report dated 1/4/05, 3 pages
CT lumbar spine post discrography report dated 1/4/05, 1 page
Preferred open MRI report dated 9/13/04, 2 pages
Letter from Texas Workers' Compensation Commission dated 5/3/05, 1 page
Medical dispute resolution request/response forms, date stamp for receipt from respondent dated 5/11/05, 3 pages

Summary of Treatment/Case History:
The claimant is a 46 year old female who injured her lumbosacral region on ___. She was diagnosed as having a symptomatic disc at L5-S1 on the left, and on 8/11/04 she underwent an L5-S1 discectomy. Her left leg symptoms persisted in spite of postoperative physical therapy, but improved somewhat with epidural steroid injections. However, the last epidural steroid injection on 10/4/04 aggravated her condition.

Her physical examination of 1/25/05 demonstrated decreased range of motion with pain, but no motor weakness or reflex abnormalities. Straight leg raising was negative, as was the Lasegue maneuver bilaterally.

The lumbar discogram of 1/4/05 was positive for concordant pain at the L5-S1 level, and the post-discogram CT demonstrated diffuse degenerative disc disease at L5-S1 with a posterior annular tear and narrowing of the left lateral recess and neural foramen.

The request is for artificial disc replacement with the Charite device at L5-S1.

Questions for Review:
Items in dispute: Preauthorization for artificial disc replacement with Charite device at L1-S1.

Explanation of Findings:
The findings are consistent with recurrent L5-S1 disc disease predominately on the left with consistent symptomatology, discogram and CT findings.

Conclusion/Decision to Certify:
The proposed procedure is medically necessary.
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Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:
The Charite device is now approved for one level degenerative disc disease in the appropriate surgical candidates. This claimant has the proper symptoms, concordant discographic pain, and positive CT findings and has failed to respond to conservative measures.

References Used in Support of Decision:
Geisler, F.H. et. al, Neurological complications of lumbar artificial disc replacement and comparison of clinical results with those related to lumbar arthrodesis in the literature: results of a multicenter, prospective, randomized investigational device exemption study of Charite intervertebral disc. J. Neurosurg (Spine2) 1:143-154, 2004.

Lemaire, J.P., SB Charite III Intervertebral disc prosthesis: Biomechanical, clinical, and radiologic correlations with a series of 100 cases over a follow up of more than 10 years.

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 reveiwer has been in active practice since 1975.

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
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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 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: Robert J. Henderson, MD
Liberty Mutual c/o Hammerman & Gainer