

June 29, 2005

CASE MANAGER
TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M2-05-1905-01
CLIENT TRACKING NUMBER: M2-05-1905-01 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, 6/14/05
Texas Worker's Compensation MR-117, 6/14/05
Medical Dispute Resolution Request/Response TWCC-60 forms, 5/31/05
Table of Disputed Services
Broadspire, Notice of Denial of Pre-Authorization, 3/30/05
Letter from John Berry, MD, 3/23/05
Broadspire, Notice of Reconsideration, 4/22/05

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Records from Respondent

Broadspire, letter from Pam Greer, 6/21/05
Broadspire, Notice of Reconsideration, 4/22/05
Broadspire, Notice of Denial of Pre-Authorization, 3/30/05

Records from Requestor:

Texas Worker's Compensation MR-117, 6/14/05
Letter from John Berry, MD, 3/23/05
Consultations and Progress notes, John Berry, MD, 2/28/05, 3/23/05
Consultation, John Berry, MD, 2/28/05
Information for your Physician forms, 2/28/05
Broadspire, Notice of Reconsideration, 4/22/05
Broadspire, Notice of Denial of Preauthorization, 3/30/05
River Oaks Imaging and Diagnostic, Lumbar Myelogram, 3/14/05
River Oaks Imaging and Diagnostic, Post Myelogram CT, 3/14/05

Summary of Treatment/Case History:

By history, the patient is a 40 year-old female with a history of chronic, incapacitating back pain with radiation into her right lower extremity following an injury on _____. She underwent a laminectomy at L5-S1 on the right as a result of her injury. With recurrence of her pain on the left she subsequently underwent a laminectomy at L4-5 and L5-S1 on the left on 9/1/04. She suffered from a left-sided foot drop with associated pain following that surgery. EMG/NCS has documented the presence of bilateral S1 and left L5 radiculopathy. Recent MRI documented scar on the right at L5-S1 and Myelogram/CT was notable for disc bulges at L4-5 and L5-S1 with operative changes noted at L4-5 on the left and L5-S1.

Questions for Review:

1. Is the Pre-Authorization Denial for Lumbar Laminectomy at L45 and S1 appropriate?

Explanation of Findings:

The proposed surgery is not medically necessary and the Denial for Lumbar Laminectomy at L4-5 and S1 is appropriate. The claimant is a 40 year-old who has had two lower back operations. The first one was done by Dr. Richard Francis on 11/07/03. A partial facetectomy on the right at LS-S1 was accomplished with excision of a herniated disc at this level. The second left hemilaminotomy at L4-5 and L5-S1 with excision of a herniated disc at L45 and recurrent disc at L5-S1 was done by Dr. Moorhead on 9/01/04. Also, a foraminotomy at L5-S1 on the left was done. According to the initial medical history from Dr. Francis of 10/16/03, the claimant was involved in a work related injury on _____. Secondary to this trauma/injury, the claimant developed back pain and right-sided leg pain. Conservative treatment failed to improve her condition or pain. The symptoms improved from the first operation, but only for a relatively short period of time. She developed recurrent symptoms this time on the left leg. The second MRI performed on 4/05/04 revealed mostly post-surgical changes at L5-S1 on the right, characterized by scar tissue or old hemorrhage in the ventral epidural space and in the

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right lateral recess. At L4-5, there were no significant changes. A third MRI which was done on 5/19/04, a month later, revealed a 3 mm disc protrusion at L4-5 with slight to moderate canal stenosis secondary to facet and ligament flavum hypertrophy, in addition to the herniated disc. A 50% stenosis was reported. At L5-S1, on the right, post-operative scar tissue with the right S1 nerve root partially encased by the scar tissue was noted as was a 3.5 mm paracentral disc protrusion on the left with compression of the thecal sac and 70% of neural foraminal stenosis on the left, with 50% on the right. Dr. Moorhead operated on the second time on 9/01/04 and the claimant developed a foot drop on the left after surgery, which was complete and has remained so since then without any evidence of improvement or return of any type of motor function. The operative report from Dr. Moorehead does not indicate any type of trauma or injury to the nerve root L5 or S1. An EMG/NCV done on 1/19/05 revealed radiculopathy at L5 on the left, with bilateral radiculopathy of the S1 nerve roots and sacroiliitis and myofascitis. The most recent x-ray studies included a lumbar myelogram and CT scan done on 3/14/05. The myelogram revealed post-operative changes (scar tissue, most likely) of the left lateral thecal sac with some compression. There was no lateral disc herniation. The conclusion of the study is bulging annuli at L4-5 and L5-S1 levels. The CT scan post-myelogram revealed at L4-5 status post left-sided hemilaminotomy, Some flattening of the left thecal sac margin, which most likely represents post operative changes. No focal disc herniation was noted. The L5-S1 level is basically without any significant compressive pathology. The MRI Interpreted by Dr. Berry revealed post-operative scar tissue on the right at L5-S1 and not on the left side, which is the side that the claimant developed a foot drop. Dr. Berry examined the claimant on 2/28/05 and his findings consist basically of a foot drop on the left without any other motor deficit or abnormal sensations in the lower extremities. She has symmetrical reflexes. Straight leg-raising was negative.

In summary the requested surgical procedure at L5-S1 on the left is not indicated or medically necessary given that the most current findings of the radiological studies reveal mostly scar tissue formation post-operatively, most notable on the right at L5-S1 which is the opposite side of the claimant's foot drop and the presence of no important or significant compressive pathological findings on those studies.

Conclusion/Decision to Not Certify:

1. Is the Pre-Authorization Denial for Lumbar Laminectomy at L45 and S1 appropriate?

The proposed surgery is not medically necessary and the Denial for Lumbar Laminectomy at L4-5 and S1 is appropriate.

References Used in Support of Decision:

1. McLain, Robert F. [Author, Reprint Author; E-mail: mclainr@ccf.org]; Bell, Gordon R. [Author]; Kalfas, Iain [Author]; Tetzlaff, John E. [Author]; Yoon, Helen J. [Author]. Complications associated with lumbar laminectomy - A comparison of spinal versus general anesthesia [Article] Spine. 29(22). November 15, 2004. 2542-2547.
2. Datta, Gorav [Author]; Gnanalingham, Kanna K. [Author, Reprint Author; E-mail: kannagnana@doctors.org.uk]; Peterson, David [Author]; Mendoza, Nigel [Author]; O'Neill, Kevin

(continued)

- [Author]; Van Dellen, James [Author]; McGregor, Alison [Author]; Hughes, Sean P. F. [Author]. Back pain and disability after lumbar laminectomy: Is there a relationship to muscle retraction? [Article] *Neurosurgery*. 54(6). June 2004. 1413–1420
3. Hernandez–Palazon, Joaquin [Author, Reprint Author; E–mail: joapal@teleline.es]; Falcon–Arana, Luis Fernando [Author]; Garcia–Martinez, Mercedes [Author]. Transient postoperative neurologic deficit after lumbar laminectomy. [Article] *Anesthesia & Analgesia*. 97(5). November 2003. 1527–1528.
 4. Aldrete, J. Antonio [Author, Reprint Author; E–mail: taldrete@arachnoiditis.com]. Epidural injections of indomethacin for postlaminectomy syndrome: A preliminary report. [Article] *Anesthesia & Analgesia*. 96(2). February 2003. 463–468.

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

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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 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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vso

cc: Requestor
Respondent