

July 29, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M2-05-2040-01
CLIENT TRACKING NUMBER: M2-05-2040-01-5278

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 07/07/05 - 1 page
- Texas Workers' Compensation Commission Form, dated 07/07/05 - 5 pages
- Fax Confirmation, dated 06/01/05 - 1 page
- Letter from Intracorp, dated 06/08/05 - 5 pages
- Letter from Intracorp, dated 05/25/05 - 3 pages

Records Received from Mark Lanning, DC:

- Patient Face Sheet, dated 02/09/05 - 1 page
- Phone Conversation, dated 02/09/05 - 1 page

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- Chart Note, dated 01/28/05-02/07/05 - 5 pages
- Consultation Note, dated 01/24/05 - 3 pages
- Recheck Note, dated 12/20/04 - 2 pages
- Chart Notes, dated 12/15/04 - 2 pages
- Consultation Notes, dated 10/22/04-11/15/04 - 6 pages
- Recheck Notes, dated 10/04/04 - 1 page
- EMG Report, dated 05/12/05 - 2 pages
- CT Report, dated 06/18/03 - 1 page
- Lumbar spine myelography and CT Report, dated 04/30/03 - 1 page
- MRI of Lumbar Spine, dated 10/04/02 - 2 pages
- Fax Cover Sheet, dated 03/02/05 - 1 page
- Patient Face Sheet, dated 02/07/05 - 1 page
- Fax Cover Sheet, dated 02/07/04 - 1 page
- Fax Confirmation Report, dated 02/07/05 - 1 page
- Recheck Notes, dated 05/23/05 - 3 pages
- Fax Cover Sheet, dated 05/26/05 - 1 page
- Recheck Notes, dated 06/20/05 - 3 pages
- Fax Cover Sheet, dated 06/22/05 - 1 page
- Chart Notes, dated 12/29/04-03/21/05 - 3 pages
- SOAP Notes, dated 09/15/04-01/28/05- 3 pages
- Examination Sheet, dated 12/31/02-02/20/04 - 2 pages
- Pain Rating Sheet, dated 10/09/02-01/08/03 - 6 pages
- Examination Sheet, dated 09/30/02-11/06/02 - 3 pages
- Log Notes, dated 09/24/03 - 1 page
- Examination Sheet, dated 04/21/03 - 1 page
- Chart Notes, dated 04/09/03 - 3 pages
- Examination Sheet, dated 04/02/03 - 1 page
- Texas Workers' Compensation Work Status Report, dated 07/12/01-12/26/00 - 3 pages
- Lumbar Myelogram Report, dated 03/11/05 - 6 pages
- Fax Cover Sheet, dated 03/14/05 - 1 page
- Lumbar Spine Myelogram and CT Report, dated 04/30/03 - 1 page
- Electrodiagnostic Results, dated 12/13/02 - 1 page
- EMG Report, dated 05/12/04 - 2 pages
- CT of the Lumbar Spine Report, dated 06/18/03 - 2 pages
- Pain Clinic Note, dated 06/18/03 - 1 page
- MRI of the Lumbar Spine Report, dated 10/04/02 - 2 pages
- Fax Cover Sheet, dated 05/18/04 - 1 page
- Fax Confirmation, dated 05/18/04 - 1 page
- Fax Cover Sheet, dated 06/07/04 - 1 page
- Fax Confirmation, dated 06/07/05 - 1 page
- Fax Cover Sheet, dated 05/21/04 - 1 page
- Fax Confirmation Sheet, dated 05/21/04 - 1 page
- Fax Cover Sheet, dated 05/06/04 - 1 page
- Lumbar Spine Range of Motion, dated 01/03/03 - 1 page

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- Extremity Range of Motion Muscle Test, dated 01/03/03 - 2 pages
- Chart Notes, dated 04/22/05-05/09/05 - 2 pages
- Recheck Notes, dated 04/25/05 - 2 pages
- Chart Notes, dated 04/22/05 - 2 pages
- Recheck Notes, dated 03/21/05 - 3 pages
- Chart Notes, dated 03/11/05 - 1 page
- Recheck Notes, dated 02/14/05 - 3 pages
- Chart Notes, dated 02/01/05 - 2 pages
- Consultation Notes, dated 01/24/05 - 3 pages
- Recheck Notes, dated 12/20/04 - 2 pages
- Consultation Notes, dated 10/22/04-11/15/04 - 6 pages
- Recheck Notes, dated 09/13/04-10/04/04 - 4 pages
- Chart Notes, dated 08/10/04 - 1 page
- Consultation Notes, dated 07/12/04-08/09/04 - 4 pages
- Fax Cover Sheet, dated 07/14/04 - 1 page
- Chart Notes, dated 06/21/04 - 3 pages
- Recheck Notes, dated 05/03/04-06/07/04 - 4 pages
- Letter from Dr. Battle, dated 04/27/04 - 4 pages
- Consultation Notes, dated 03/29/04 - 2 pages
- Recheck Notes, dated 03/08/04 - 2 pages
- Consultation Notes, dated 03/01/04 - 2 pages
- Recheck Notes, dated 10/20/03-02/09/04 - 11 pages
- Follow-up Notes, dated 09/24/03 - 2 pages
- Recheck Notes, dated 09/15/03 - 2 pages
- Pain Clinic Notes, dated 09/05/03 - 1 page
- Recheck Notes, dated 08/25/03-09/03/03 - 4 pages
- Pain Clinic Note, dated 08/22/03 - 1 page
- Consultation Note, dated 08/06/03 - 2 pages
- Recheck Note, dated 07/21/03 - 2 pages
- Patient Face Sheet, dated 07/22/03 - 1 page
- Consultation Notes, dated 06/16/03 - 3 pages
- Recheck Notes, dated 05/13/03 - 2 pages
- New Patient Evaluation, dated 04/22/03 - 3 pages
- Consultation Notes, dated 12/03/02-01/10/03 - 4 pages
- Report of Procedure, dated 12/03/02-01/10/03 - 2 pages
- Consultation Notes, dated 11/12/02 - 2 pages
- Report of Procedure, dated 11/02/02 - 1 page
- Initial Consultation, dated 10/15/02 - 2 pages
- Consultation Notes, dated 10/15/02 - 2 page
- Letter from Gary Polizzotto, DC, dated 11/08/02 - 1 page
- Letter from Dr. Marable, dated 10/04/02 - 3 pages
- Physical Examination, undated - 3 pages
- Low Back and Neck Pain Questionnaire, undated - 1 page
- Report of Medical Evaluation, dated 04/17/96 - 1 page

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- Specific and Subsequent Medical Report, dated 03/12/99 - 1 page
- History of Chief Complaint, dated 03/01/99 - 4 pages
- Letter from Dr. Mitchell, dated 03/12/98 - 2 pages
- Report of Medical Evaluation, dated 08/14/96 - 8 pages
- General Pain Disability Index Questionnaire, dated 08/14/96 - 2 pages
- Report of Medical Evaluation, dated 08/14/96 - 1 page
- Impairment Rating, dated 04/25/97 - 8 pages
- Impairment Rating, dated 04/25/97 - 8 pages
- Letter from Dr, Bauer, undated - 1 page
- Letter from Dan Sexton, dated 03/27/02 - 1 page
- Payment of Compensation or Notice of Refused/Disputed Claim, dated 08/26/98 - 1 page
- Letter from Bobby Fletcher, dated 06/19/95 - 2 pages
- Letter from TWCC, dated 07/25/95 - 1 page
- Employee's Request to Change Treating Doctors, dated 08/07/98 - 1 page
- Payment of Compensation or Notice of Refused/Disputed Claim, dated 07/26/95 - 1 page
- Instructions for Patients Receiving Injections, dated 05/13/98 - 1 page
- Letter from REM, dated 04/07/99 - 1 page
- Letter from Lorenzo Brown and Associates, dated 07/13/95 - 1 page
- Request for Setting a Benefit Review Conference, dated 07/13/95 - 1 page
- Letter from Lorenzo Brown and Associates, dated 06/02/95 - 5 pages
- Recommendation for Spinal Surgery, dated 05/17/00 - 2 pages
- Letter from REM, dated 05/23/00 - 1 page
- Letter from Peter Rogers, dated 06/17/97 - 1 page
- Chart Notes, dated 04/11/96 - 1 page
- Letter from TWCC, dated 09/29/95 - 2 pages
- Benefit Review Conference Report, dated 09/18/95 - 4 pages
- Certified Mail Return Receipt, dated 06/20/96 - 2 pages
- Letter from TWCC, dated 12/29/95 - 3 pages
- Letter from REM, dated 10/08/99 - 2 pages
- Baylor Medical Center Disclosure and Consent Medical and Surgical Procedures, dated 09/21/00 - 1 page
- Letter from The Home Insurance Company, dated 05/25/95 - 1 page
- Chart Note, dated 05/23/05 - 1 page
- Letter from, Dr. Laning, dated 05/09/05-05/10/05 - 2 pages
- Chart Note, dated 03/14/05-04/27/05 - 5 pages
- Record Review, dated 02/16/05 - 2 pages
- Phone Conversation, dated 02/10/05 - 1 page
- Patient Face Sheet, dated 02/09/05 - 1 page
- Phone Conversation, dated 02/09/05 - 1 page
- Patient Face Sheet, dated 02/07/05 - 2 pages
- Chart Notes, dated 01/28/05-02/07/05 - 3 pages
- Patient Face Sheet, dated 12/29/04 - 1 page
- Chart Notes, dated 01/04/05 - 1 page
- Patient Face Sheet, dated 12/29/04 - 1 page

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- Phone Conversation, dated 12/17/04 - 1 page
- Chart Notes, dated 07/15/04-12/15/04 - 12 pages
- Patient Face Sheet, dated 07/06/05-08/13/04 - 2 pages
- Chart Notes, dated 05/07/04-07/05/04 - 4 pages
- Patient Face Sheet, dated 04/30/04 - 2 pages
- Chart Notes, dated 04/30/04 - 1 page
- Patient Face Sheet, dated 04/26/04 - 1 page
- Chart Notes, dated 03/31/04 - 1 page
- Patient Face Sheet, dated 03/08/04 - 1 page
- Chart Note, dated 03/08/04 - 1 page
- Chart Notes, dated 02/20/04 - 5 pages
- Chart Notes, dated 01/16/04-02/14/04 - 2 pages
- Patient Face Sheet, dated 09/22/03 - 1 page
- Chart Notes, dated 09/30/02-07/11/03 - 15 pages
- Chart Notes, dated 11/10/02-12/08/02 - 2 pages
- Employee's Request to Change Treating Doctors, dated 09/24/02 - 1 page

Records Received from the Respondent:

- Letter from Mr. Sheffield, dated 07/15/05 - 2 pages
- Letter from Mr. Finch, dated 07/05/05 - 2 pages
- Medical Dispute Resolution Request/Response, dated 06/23/05 - 3 pages
- Letter from Intracorp, dated 06/08/05 - 5 pages
- Letter from Intracorp, dated 05/25/05 - 3 pages

Records Received from the Requestor:

- Letter from Intracorp, dated 06/08/05 - 5 pages
- Letter from Intracorp, dated 05/25/05 - 3 pages
- Request for Preauthorization for Surgery, dated 05/18/05 - 1 page
- Chart Note, dated 04/22/05-05/09/05 - 2 pages
- Selective Nerve Root Blocks, dated 04/06/05 - 1 page
- Lumbar Myelogram Report, dated 03/11/05 - 3 pages
- Letter from Dr. Proler, dated 05/12/04 - 2 pages
- Pain Clinic Note, dated 06/18/03 - 1 page
- CT of the Lumbar Spine Report, dated 06/18/03 - 2 pages

Summary of Treatment/Case History:

This is a 47 year-old female who sustained cervical and lumbar injury at work on _____. She had cervical surgery at C4-5 and on 09/21/00; she had an interbody anterior lumbar fusion at L4-L5. Prior to the surgery, she complained of symptoms in both lower extremities more right than left. She now complains of pain, paresthesia and give-way weakness in the left lower extremity. Myelogram and CT on 03/11/05 reports annular bulge at L3 with left foraminal protrusion without compression or displacement of the L3 nerve root. EMG and NCV study on 05/12/04 showed no motor deficits. On 06/18/03 a discogram at L3 was normal. On 06/21/04 Dr. Henderson notes intact patellar and Achilles reflexes on the left with positive straight leg raising and positive sciatic stretch (Lasegue's) on the left. On 02/01/05 (8 months later), he noted profound weakness in the left lower extremity with

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1/5 weakness in the extensor hallucis longus and 4/5 strength in the evertors of the ankle. He proposed total laminectomy at L5, partial laminectomy at L3, evaluation of fusion, intraoperative process fusion L3, L4, L5, posterior internal fixation L5-S1, bone allograft, bone graft, allograft in situ, allograft iliac crest and bone marrow aspirate.

Questions for Review:

Item(s) In Dispute: Preauthorization denied for total laminectomy at L5, partial laminectomy at L3/L4, evaluation of fusion, intraoperative process fusion L3-4, L4-L5, L5-S1, posterior internal fixation L3-S1, bone graft, allograft, bone graft, allograft in situ, bone graft, allograft iliac crest and bone marrow aspirate.

Explanation of Findings:

Question 1: Item(s) In Dispute: Preauthorization denied for total laminectomy at L5, partial laminectomy at L3/L4, evaluation of fusion, intraoperative process fusion L3-4, L4-L5, L5-S1, posterior internal fixation L3-S1, bone graft, allograft, bone graft, allograft in situ, bone graft, allograft iliac crest and bone marrow aspirate.

The above procedures are not medically necessary. The patient has no lumbar instability and no further fusion procedures are necessary. The findings at L3 do not indicate nerve root compromise at that level. The anatomic findings are incorrect. A protrusion at L3 would involve the L4 nerve root which lies just lateral to the 3rd lumbar interspace. To affect L3 it would take an extruded disc herniation lying far lateral to the disc space which is not the case on the referenced study. The neurologic findings by Dr. Henderson on 02/01/05 are markedly different than findings by him 8 months earlier and represent an intervening event since the previous exam on 06/21/04. The findings indicate profound motor weakness involving the L5 root. There is nothing on the myelogram and CT study that indicates L5 pathology at the spinal level. The etiology of her findings at L5 has yet to be elucidated. Within reasonable medical probability, the L5 impairment is distal to the spine possibly at the popliteal fossa. The proposal for surgery at L3 is incompatible with the findings at L3, because the L4 nerve root is principally the femoral nerve and innervates the quadriceps and sartorius muscles, L4 has no motor function below the knee. It mediates the patellar reflex which was intact. L5 is part of the sciatic nerve and exits at the L4-5 interspace and there is no evidence of L5 root compromise on the 03/11/05 myelogram-CT. The patient would benefit from a Neurologic or Physical Medicine Rehabilitation specialist who is trained in electrodiagnostic studies. This might serve to determine the etiology of the profound change on 02/01/05 examination.

Conclusion/Decision to Not Certify:

Total laminectomy at L5, partial laminectomy at L3/L4, evaluation of fusion, intraoperative process fusion L3-4, L4-L5, L5-S1, posterior internal fixation L3-S1, bone graft, allograft, bone graft, allograft in situ, bone graft, allograft iliac crest and bone marrow aspirate are not medically necessary.

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References Used in Support of Decision:

Grant, J.C. Boileau, Method of Anatomy, Williams and Wilkens, 1958.

Hollinshead, Henry, Functional Anatomy of the Limbs and Back W.B. Saunders 1960.

AHCPR Federal Guidelines #14, page 90.

The physician providing this review is board certified in Orthopedic Surgery. The reviewer holds additional certification from the American Board of Orthopaedic Surgery. The reviewer has served in capacity of executive committee member, credentials committee, chairman of the surgery department, board of directors and quality boards at various hospitals and medical centers. The reviewer currently serves as the Chief of Orthopedic Surgery at a VA Medical Center. The reviewer has been in active practice since 1970.

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 received by 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 / Appeals Clerk
P. O. Box 17787
Austin, TX 78744

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

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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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cc: Requestor and Respondent