

July 29, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-05-2061-01

CLIENT TRACKING NUMBER: M2-05-2061-01 / 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 7/12/05, 6 pages

Notice of utilization review findings dated 6/9/05, 2 pages

Notice of utilization review findings dated 6/3/05, 2 pages

Records Received from Provider - Positive Pain Management:

Notice of utilization review findings dated 5/2/05, 2 pages

Authorization for requested services dated 4/29/05, 1 page

Request for additional 10 days dated 4/20/05, 2 pages

Summary of biofeedback treatment/request for 10 additional visits dated 4/20/05, 1 page

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Physical performance summary evaluation (request for 10 additional days) dated 4/21/05, 2 pages
Physical performance summary evaluation (request for 10 additional days) dated 5/20/05, 2 pages
Request for additional 10 days dated 5/25/05, 2 pages
Summary of biofeedback treatment/request for 10 additional visits dated 5/26/05, 1 page
Final discharge summary dated 5/26/05, 1 page
Pain program activities dated 4/25/05 through 4/28/05, 2 pages
Psychological evaluation report dated 11/2/04, 6 pages
Overview of the psychological assessment, undated, 3 pages
Individualized treatment plan dated 3/21/05, 3 pages
Letter of medical necessity dated 11/2/04, 1 page
Followup progress notes dated 1/21/05, 6 pages
Followup visit reports dated 8/13/04 and 9/9/04, 4 pages
Followup report dated 8/13/04, 2 pages
Initial consultation dated 7/19/04, 4 pages
Prescription, undated, 1 page

Records Received from Insurance Company (Respondent):

Letter from Gregory D. Solcher dated 7/19/05, 2 pages
Letter from Scott D. Bouton dated 7/8/05, 2 pages
Medical dispute resolution request/response, date request sent to respondent 7/1/05, 3 pages
Notice of utilization review findings dated 6/3/05, 2 pages
Followup visit report dated 11/4/04, 2 pages
Notice of utilization review findings dated 2/15/05, 2 pages
Preauthorization request form dated 1/23/05, 1 page
Followup progress note dated 12/2/04 through 3/15/05, 12 pages
Letters of agreement dated 2/14/05 and 4/1/05, 2 pages
Psychological evaluation report dated 11/2/04, 6 pages
Notice of utilization review findings dated 4/6/05, 2 pages
Preauthorization request form dated 3/31/05, 1 page
Preauthorization peer review form dated 4/5/05, 1 page
Individualized treatment plan dated 3/21/05, 3 pages
Letter of medical necessity dated 11/2/04, 1 page
Overview of the psychophysiological assessment report, undated, 3 pages
Positive Pain Management Inc. program description, undated, 4 pages
Labor code, effective 9/1/95, 1 page
Prescription, undated, 1 page
Prescription dated 12/3/04, 1 page
Physical performance test dated 4/4/04, 1 page
Physical medicine and rehabilitation HCPCS codes, guidelines and limited coverage, undated, 1 page
Supporting information on the physical performance test, undated, 1 page
Physical performance test dated 11/2/04, 13 pages
Pain program activities dated 4/11/05 and 4/12/05, 2 pages
Group therapy progress notes dated 4/11/05 through 4/27/05, 8 pages
Neuromuscular integrative action progress notes dated 4/11/05 and 4/27/05, 2 pages
Hypnosis group progress notes dated 4/12/05 through 5/10/05, 4 pages

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Feldenkrais group progress notes dated 4/12/05 and 4/19/05, 2 pages
Qi Going group progress notes dated 4/12/05 through 5/10/05, 5 pages
Acupuncture progress notes dated 4/12/05 through 5/10/05, 4 pages
Pain program activities dated 4/11/05 through 5/12/05, 14 pages
Massage therapy progress notes dated 4/13/05 through 5/11/05, 6 pages
Transportation notes dated 4/15/05 through 5/11/05, 7 pages
Nutritionist progress notes dated 4/15/05, 2 pages
Pilates group progress notes dated 4/15/05 and 5/11/05, 2 pages
Notice of utilization review findings dated 5/2/05, 2 pages
Followup progress notes dated 2/18/05 and 3/15/05, 2 pages
Individual session notes dated 4/20/05 and 4/28/05, 3 pages
Preauthorization request dated 4/26/05, 1 page
Physical performance summary evaluation (request for 10 additional days) dated 4/21/05, 2 pages
Request for additional 10 days dated 4/20/05, 2 pages
Summary of biofeedback treatment/request for 10 additional visits dated 4/20/05, 1 page
Letter of agreement dated 4/27/05, 1 page
Communication report dated 4/27/05, 1 page
Biofeedback session report dated 4/28/05, 1 page
Acknowledgement of reconsideration request dated 6/6/05, 1 page
Reiki group progress notes 5/11/05, 1 pages
Group therapy progress note dated 5/11/05, 1 page
Notice of utilization review findings dated 6/3/05, 2 pages
Fax coversheet from Dr. Carrasco dated 5/26/05, 1 page
Letter from Dr. Carrasco dated 5/26/05, 1 page
Letter of agreement dated 5/27/05, 1 page
Preauthorization request, undated, 1 page
Notice of utilization review findings dated 6/9/05, 2 pages
Preauthorization request dated 5/27/05, 1 page
Physical performance summary evaluation dated 5/20/05, 2 pages
Summary of biofeedback treatment/request for 10 additional visits dated 5/26/05, 1 page
Request for additional 10 days dated 5/25/05, 2 pages
Letter of agreement dated 5/27/05, 1 page
Pain program activities dated 5/23/05 and 5/24/05, 2 pages
Biofeedback session report dated 5/23/05, 1 page
Individual session note dated 5/23/05, 1 page
Massage therapy progress notes dated 5/23/05, 1 page
Letter from Mario Bustos dated 5/23/05, 1 page
Transportation notes dated 5/24/05 through 5/26/05, 3 pages
Group therapy progress notes dated 5/16/05 through 5/25/05, 3 pages
Feldenkrais group progress notes dated 5/17/05 through 5/26/05, 3 pages
Qi Gong group progress notes dated 5/24/05 and 5/26/05, 2 pages
Acupuncture progress notes dated 5/24/05 and 5/26/05, 2 pages
Pain program activities notes dated 5/16/05 through 5/26/05, 7 pages
Neuromuscular integrative action progress notes dated 5/25/05, 1 page
Letters from Bea Weakley, LSW dated 5/25/05 and 5/26/05, 2 pages

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Massage therapy progress notes dated 5/16/05 and 5/25/05, 2 pages
Preauthorization request dated 6/3/05, 1 page
Letter from Dr. Bodin dated 6/3/05, 1 page
Physical performance summary evaluation 5/20/05, 2 pages
Summary of biofeedback treatment/request for 10 additional visits dated 5/26/05, 1 page
Request for additional 10 days dated 5/25/05, 2 pages
Final discharge summary dated 5/26/05, 1 page
Office report form dated 5/16/05, 1 page
Transportation form dated 5/17/05, 1 page
Hypnosis group progress notes 5/17/05 and 5/19/05, 2 pages
Individual session note dated 5/17/05, 1 page
Biofeedback session report dated 5/17/05, 1 page
Pilates group progress notes dated 5/18/05, 1 page
Neuromuscular integrative action progress notes dated 5/18/05, 1 page
Emotional intelligence note dated 5/18/05, 1 page
Group therapy progress note dated 5/18/05, 1 page
Feldenkrais group progress notes dated 5/19/05, 1 page
Qi Gong group progress notes dated 5/19/05, 1 page

Summary of Treatment/Case History:

The claimant is a 55 year old gentleman who allegedly suffered a workplace injury on ____.
Subsequently, he developed low back pain. He underwent lumbar spine surgery in May 1993, which did not result in resolution of his pain. In the intervening period, he has continued to suffer from increasingly severe low back pain with radiation to his legs. He has undergone a variety of conservative and invasive treatments, including physical therapy, opioid medications, facet joint injections and psychological therapy. He was referred for an intensive outpatient multidisciplinary pain treatment program. He has completed 20 sessions of that program with significant improvement in his pain and measurable improvement in function. An additional 10 session have been requested to provide further improvement in function.

Questions for Review:

Service in dispute: Chronic pain management program x 10 additional sessions.

Explanation of Findings:

The claimant has undergone 20 sessions of a chronic pain management program, which has produced measurable improvement in his functioning, particularly in range of motion and straight leg raising. The clinical assessment of the program staff is that he has not received maximum benefit and that another 10 days would be beneficial. Most other chronic pain management programs require at least 30 sessions. The clinical guideline quoted by the insurance company in its denial letter of 6/3/05 was truncated. The quoted guideline goes on to say: "Obviously, there could be exceptions to this, and when that occurs, the extension of intervention and purpose should be clearly documented." The purpose and basis for the request for an additional 10 sessions have been adequately presented by the provider. Furthermore, this additional treatment clearly promotes recovery and, according to the applicable Texas standard, is appropriate.

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Conclusion/Decision to Certify:

An additional 10 sessions of the chronic pain management program is medically necessary.

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

Texas Definition of Medical Necessity (Texas Labor Code §408.021):

An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to health care that:

- 1) Cures or relieves the effects naturally resulting from the compensable injury;
- 2) Promotes recovery, or
- 3) Enhances the ability of the employee to return to or retain employment.

References Used in Support of Decision:

Sanders SH, et al. (1999). Clinical practice guidelines for chronic non-malignant pain syndrome patients II: an evidence-based approach. J Back Musculoskeletal Rehabil 13:47-58.

Patrick, L E, et al. (2004). Long-term outcomes in multidisciplinary treatment of chronic low back pain: results of a 13-year follow-up. Spine 29:850-5

Skouen, J S, et al. (2002). Relative cost-effectiveness of extensive and light multidisciplinary treatment programs versus treatment as usual for patients with chronic low back pain on long-term sick leave: randomized controlled study. Spine 27:901-9; discussion 909-10

Guzman, J, et al. (2002). Multidisciplinary bio-psycho-social rehabilitation for chronic low back pain. Cochrane Database Syst Rev CD000963

The physician providing this review is board certified in Anesthesiology. The reviewer holds additional certification in Pain Medicine from the American Board of Pain Medicine. The reviewer is a diplomate of the national board of medical examiners. The reviewer has served as a research associate in the department of physics at MIT. The reviewer has received his PhD in Physics from MIT. The reviewer is currently the chief of Anesthesiology at a local hospital and is the co-chairman of Anesthesiology at another area hospital. The reviewer has been in active practice since 1978.

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.

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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 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: Positive Pain Management
Facility Insurance Corp c/o Flahive Odgen & Latson