

October 17, 2005

TEXAS WORKERS COMP. COMISSION  
AUSTIN, TX 78744-1609

CLAIMANT: \_\_\_

EMPLOYEE: \_\_\_

POLICY: M2-06-0062-01

CLIENT TRACKING NUMBER: M2-06-0062-01-5278

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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:**

Records from the State:

1. Texas Department of Insurance IRO Assignment-2 pages
2. Medical Dispute Resolution Request/Response Form-2 pages
3. Table of Disputed Services-2 pages
4. Letter from Michelle Erkitz-Utilization Review Nurse-2 pages
5. Letter from Cassandra Bricker-Utilization Review Nurse-2 pages
6. Diagnostic Imaging Report-1 page
7. Initial Office Visit Notes from Dr. M. David Dennis MD-3 pages
8. Electrodiagnostic Study Report-3 pages
9. Follow-Up Notes from Dr. M. David Dennis MD-1 page

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Records from the Insurance Company:

1. Employer's First Report of Injury or Illness Form-1 page
2. LabOne Report-1 page
3. Well Care Medical Clinic Notes-6 pages
4. Providence Surgical and Medical Center Notes-3 pages
5. Well Care Medical Clinic Notes-3 pages
6. Initial Office Visit Notes from Dr. M. David Dennis MD-2 pages
7. Electrodiagnostic Study Report-2 pages
8. Well Care Medical Clinic Notes-3 pages
9. Texas Workers; Compensation Work Status Report Form-7 pages
10. Letter from Flahive, Ogden and Latson Law Office-4 pages

Records from Dr. Dennis

1. Diagnostic Imaging Report-2 pages
2. Initial Office Visit Notes from Dr. M. David Dennis MD-3 pages
3. Innovative Physical Therapy Plan of Care Notes-2 pages
4. Electrodiagnostic Study Report-3 pages
5. Follow-Up Notes from Dr. M. David Dennis MD-1 page
6. Innovative Physical Therapy Plan of Care Re-Evaluation Notes-2 pages
7. Duplicate Notes from the Insurance Company-17 pages

**Summary of Treatment/Case History:**

The patient is a 53-year-old male forklift operator, who complained of right leg and calf pain at work on \_\_\_\_\_. An MRI of the lumbar spine dated 5/23/05 revealed multilevel disc disease with spinal stenosis at L4-L5 and L5-S1, significant disc herniation at L5-S1 and a possible right disc herniation at the L4-L5 level.

The patient was evaluated by a spine surgeon on 6/23/05. The patient reported flopping, numbness and weakness in the right foot with pain up and down the right leg. On examination, there was significant tenderness to palpation in the lumbar spine with definite weakness in the right anterior tibialis and the extensor hallucis longus compared to the left. Sensation was decreased through the dorsum of the right foot at L5. Straight leg raise testing was negative. Lumbar spine x-rays showed disc space narrowing at L5-S1 and L5-S1 with slight instability noted at L5-S1 with minimal spondylolisthesis. The impression was herniated nucleus pulposus at L4-L5 and L5-S1 and right lumbar radiculopathy.

Electrodiagnostic studies were obtained on 7/29/05 and the results were indicative of acute right L5 motor radiculopathy with no signs of neuropathy in the lower extremities. The patient treated with 16 visits of physical therapy (PT) with some improvement in right leg pain and numbness but no relief of low back pain. The request was for a lumbar discogram, four levels, with post CT at L2 through S1 for evaluation of back pain prior to proceeding with surgical intervention.

**Questions for Review:**

1. Preauthorization request: lumbar discogram with post CT L2-S1-4 levels.

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**Explanation of Findings:**

The 53-year-old forklift operator is 6 months post onset of right leg symptoms diagnosed with a herniated lumbar disc at both the L4-L5 and L5-S1 levels. The patient has weakness of the right anterior tibialis and extensor hallucis longus and decreased sensation of the dorsum of the right foot that corresponds to electrodiagnostic testing that shows an acute right L5 radiculopathy. Despite conservative treatment the patient continues with right leg and low back pain.

Based upon review of the documentation provided, there is no indication in the medical records for a four level discogram for this patient. The patient has radicular pain that corresponds to the MRI findings of a significant disc herniation at L5-S1 and a possible disc herniation at L4-L5. While the patient continues to experience low back pain, he does not appear to be a candidate for a fusion or stabilization procedure. Indications for a primary fusion procedure in treatment of a disc herniation are not well support in medical literature without evidence of instability or prior surgery. There is no documentation to support that the patient has diagnostic evidence of severe spondylitic changes to require a fusion procedure. In the absence of this evidence, a four level discogram is not recommended as medically necessary.

**Conclusion/Decision to Not Certify:**

The preauthorization request for a lumbar discogram with post CT L2-S1-4 levels is not recommended as medically necessary.

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

1. Orthopedic Knowledge Update, Spine 2, Fardon editor, Chapter 9, page 82
2. Campbell's Operative Orthopedics, chapter 39, page 1977

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The physician providing this review is board certified in Orthopaedic Surgery. The reviewer is a member of the American Academy of Orthopaedic Surgeons, the American Medical Association, the North American Spine Society, the Pennsylvania Medical Society, the Pennsylvania Orthopaedic Society, the American Association for Hand Surgery and is certified in impairment rating evaluations through the Bureau of Worker's Compensation. The reviewer has publication experience within their field of specialty and has been in private practice since 1995.

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 Appeal**

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to

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District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

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: requestor and respondent