

December 7, 2005

TX DEPT OF INS DIV OF WC  
AUSTIN, TX 78744-1609

CLAIMANT: \_\_\_

EMPLOYEE: \_\_\_

POLICY: M2-06-0291-01

CLIENT TRACKING NUMBER: M2-06-0291-01

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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 Department of Insurance Division of Workers Compensation has assigned the above mentioned case to MRIOA for independent review in accordance with DWC 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 DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

**Records Received:**

Records from the State:

Notification of IRO Assignment, 11/16/05

DWC Notice of receipt of request for Medical Dispute Resolution, 11/16/05

Medical Dispute Resolution Request/Response form 10/24/05

Provider List

Table of Disputed Services

Denial letter, Lois Garcia, RN, 8/29/05

Denial letter, Donna Daniel, RN, 9/12/05

Appeal letter, Ryan Potter, MD, 9/19/05

Report of MRI of lumbar spine, 8/17/04

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Records from Ryan Potter, MD:

Appeal letter, Ryan Potter, MD, 9/19/05  
Report of MRI of lumbar spine, 8/17/04  
Denial letter, Donna Daniel, RN, 9/12/05  
Denial letter, Lois Garcia, RN, 8/29/05  
Worker's Compensation Preauthorization Form, 9/2/05  
Appeal letter, Ryan Potter, MD, 8/31/05  
New Patient Visit Note, Rob Williams, MD, 11/17/04  
H&P, Ryan Potter, MD, 8/11/05  
Report of post-myelogram CT scan of lumbar spine, 8/2/05  
Initial H&P, Ryan Potter, MD, 1/24/05  
Report of EMG/NCV, 10/4/04  
Worker's Compensation Preauthorization Form, 8/23/05  
Report of CT of lumbar spine, 9/13/04  
Lumbar myelogram note, 9/13/04  
Report of flexion/extension films of lumbar spine, 9/13/04

Records from Texas Mutual Insurance:

Carrier's statement, LaTrece Giles, RN, 12/2/05  
Report of MRI of lumbar spine, 8/17/04  
Neurosurgical consultation note, Victor Kareh, MD, 8/25/04  
Report of CT of lumbar spine, 9/13/04  
Lumbar myelogram note, 9/13/04  
Report of flexion/extension films of lumbar spine, 9/13/04  
Neurosurgical follow-up notes, Victor Kareh, MD, 9/22/04, 10/7/04  
Report of EMG/NCV, 10/4/04  
Established Patient Visit notes, Rob Williams, MD, 7/21/05, 9/15/05  
Initial H&P, Ryan Potter, MD, 1/24/05  
H&P, Ryan Potter, MD, 8/11/05  
Denial letter, Lois Garcia, RN, 8/29/05  
Denial letter, Donna Daniel, RN, 9/12/05

**Summary of Treatment/Case History:**

The claimant is a 47 year-old gentleman who allegedly suffered a workplace injury on \_\_\_\_.  
Subsequently he developed low back and right leg pain. Physical examination reveals mild tactile hypesthesia to light touch distal to the right knee. Straight leg raising is negative. He has undergone MRI examination of the lumbar spine as well as myelography with post-myelogram CT scan, both of which reveal disc herniations a L4-5 and L5-S1. He has not responded to a series of epidural steroid injections.

**Questions for Review:**

Item in dispute: Pre authorization request: Provocative discogram at L3-4, L4-5, L5-S1 under fluoroscopic guidance with MAC anesthesia, post CT scan.

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1. Please review medical necessity for Provocative discogram at L3-4, L4-5, L5-S1 under fluoroscopic guidance with MAC anesthesia, post CT scan.

**Explanation of Findings:**

The claimant appears to satisfy the usual selection criteria for lumbar discography, which are listed below. He has a reasonably certain diagnosis of lumbar radiculopathy and two herniated discs. The discogram will determine which of the herniated discs is the source of the radiculopathic pain, aiding in planning for possible surgical treatment.

**Conclusion/Decision to Certify:**

1. Please review medical necessity for Provocative discogram at L3-4, L4-5, L5-S1 under fluoroscopic guidance with MAC anesthesia, post CT scan.

The requested discography under fluoroscopic guidance with MAC anesthesia and post CT scan is medically necessary.

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

Reasonable selection criteria for lumbar discography are:

1. Lumbar radicular pain, with or without low back pain, for more than 3 months.
2. Failure to adequately improve with a comprehensively applied, aggressive, nonoperative treatment program, consisting of stabilization, exercise training, back education, activity modification and epidural steroid injections.
3. An MRI showing a contained disc protrusion with or without neural compromise.
4. A positive SLR (reproduction of sciatica at less than 70 degrees of SLR) or a dermatomal neurological abnormality in the dermatome of the radicular pain or EMG/NCV evidence of lumbar radiculopathy of the dermatome of the radicular pain.

**References Used in Support of Decision:**

Derby, R, et al. (2005). Comparison of discographic findings in asymptomatic subject discs and the negative discs of chronic LBP patients: can discography distinguish asymptomatic discs among morphologically abnormal discs? Spine J 5:389-94

Madan, S, et al. (2002). Does provocative discography screening of discogenic back pain improve surgical outcome? J Spinal Disord Tech 15:245-51

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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

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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.

MRloA 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 DWC.

**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 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 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

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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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Case Analyst: Valerie O ext 554

cc: Requestor  
Respondent