

December 21, 2005

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-0313-01

CLIENT TRACKING NUMBER: M2-06-0313-01

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 Received from the State:

- Notification of IRO Assignment, 11/23/05 - 2 pages
- Medical Dispute Resolution Request/Response, 11/23/05 - 1 page
- Table of Disputed Services, undated - 1 page
- UniMed Direct LLC Review Determination, 9/13/05 - 1 page
- UniMed Direct LLC Pre-Authorization Intake Form, 9/8/05 - 1 page
- ETMC Outpatient Physician Orders, 10/1/04 - 1 page
- UniMed Direct LLC Review Determination, 10/7/04 - 1 page

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Records Received from Mark Hackbarth, MD:

- Office Note from Mark A. Hackbarth, MD, 7/7/03 - 1 page
- History and Physical from Mark A. Hackbarth, MD, 11/13/02 - 2 pages
- Procedure Note from Mark A. Hackbarth, MD, 11/13/02 - 2 pages
- Procedure Note from Mark A. Hackbarth, MD, 11/13/05 - 1 page
- Tyler Neurosurgical History and Physical, 10/10/02 - 2 pages
- Letter from Tyler Neurosurgical to Dr. Carmody, 10/28/02 - 1 page
- Tyler Neurosurgical Followup Visit, 12/6/02 - 2 pages
- Tyler Neurosurgical Followup Visit, 1/10/03 - 1 page
- Tyler Neurosurgical Followup Visit, 2/18/03 - 2 pages
- Tyler Neurosurgical Followup Visit, 3/14/03 - 1 page
- Tyler Neurosurgical Followup Visit, 4/16/03 - 1 page
- Letter from Tyler Neurosurgical to Royal Sun Alliance, 5/9/03 - 1 page
- Letter of Medical Necessity for the Continued Used of the RS-4i Sequential Stimulator, 7/7/03 - 1 page
- Tyler Neurosurgical Office Note, 10/29/03 - 2 pages
- Letter from Tyler Neurosurgical to Aaron Calodney, MD, 8/29/03 - 1 pages
- Tyler Neurosurgical Followup Visit, 12/5/03 - 1 page
- Texas Spine and Joint Hospital Operative Report, 10/30/03 - 1 page
- East Texas Medical Center NM Bone Imaging (Whole Body) Inj. With Spect Evaluation Final Report, 3/31/03 - 1 page
- East Texas Medical Center MROP T Spine WO Contrast Preliminary Report, 4/14/03 - 1 page
- East Texas Medical Center Tyler Procedure Note, 9/29/03 - 1 page
- East Texas Medical Center Tyler Procedure Note, 12/22/03 - 1 page
- Tyler Neurosurgical Followup Visit, 2/24/04 - 2 pages
- Tyler Neurosurgical Followup Visit, 9/13/04 - 2 pages
- Tyler Neurosurgical Authorization Request, 12/6/02 - 1 page
- Tyler Neurosurgical Authorization Request, 3/14/03 - 1 page

Records Received from Royal Insurance Company of America:

- The Ortho Spine Clinic Independent Medical Examination, 8/12/04 - 2 pages
- The Ortho Spine Clinic Required Medical Examination, 3/28/05 - 3 pages
- Open Imaging of Mt. Pleasant Report of X-ray Examination, 8/15/02 - 1 page
- Chart Notes from Garry Taylor, DO, PA, 8/6/03 - 2 pages
- Chart Notes from Garry Taylor, DO, PA, 5/5/05 - 1 page
- Med-Shop Total Care Pharmacy Ketoprofen 10%-Licocaine 5%-Baclofen 3% Information, undated - 1 page
- Chart Notes from Garry Taylor, DO, PA, 4/7/05 - 1 page
- Email from Celestin Marchand to Bonnie Lopez Review Determination, 4/4/03 - 2 pages
- Email from Celestin Marchand to Bonnie Lopez Review Determination, 4/28/03 - 2 pages
- UniMed Direct LLC Review Determination, 9/10/03 - 1 page
- UniMed Direct LLC Review Referral Form, 3/29/03 - 1 pages
- Texas Back Institute Consultation Report, 9/22/03 - 3 pages

- Texas Back Institute Radiology Report, 9/22/03 - 1 page
- East Texas Medical Center Tyler Procedure Note, 9/29/03 - 1 page
- Review Determination, 10/15/03 - 1 page
- Texas Spine and Joint Hospital Operative Report, 10/30/03 - 1 page
- The Ortho Spine Clinic MRI Thoracic Spine, 8/12/04 - 1 page
- The Ortho Spine Clinic MRI Thoracic Spine, 8/12/04 - 1 page
- Texas Back Institute Follow-Up Progress Note, 8/18/04 - 1 page
- Texas Workers' Compensation Work Status Report, 8/19/04 - 1 page
- UniMed Direct LLC Review Determination, 9/21/04 - 1 page
- The Ortho Spine Clinic MRI Thoracic Spine, 3/28/05 - 1 page
- Update on Court Issues, 7/25/03 - 4 pages
- Medical Consultation Progress Report, 8/22/03 - 3 pages
- Behavioral Medicine Evaluation, 6/23/05 - 6 pages

Records Received from Garry Bill Taylor, DO:

- Order for Production of Documents, 11/30/05 - 1 pages
- Behavioral Medicine Evaluation, 6/23/05 - 6 pages
- The Ortho Spine Clinic MRI Thoracic Spine, 3/28/05 - 1 page
- RME Report, 3/28/05 - 1 page
- Texas Back Institute Follow-Up Progress Note, 8/18/04 - 1 page
- Texas Back Institute Follow-Up Progress Note, 8/18/04 - 1 page
- Office Visits, 7/12/05 - 1 page
- UniMed Direct LLC Pre-Authorization Intake Form, 6/8/05 - 1 page
- UniMed Direct LLC Review Determination, 6/10/05 - 1 page
- UniMed Direct LLC Review Determination, 9/21/04 - 1 page
- Fax Cover Sheet from Tyler Neurosurgical, 5/10/04 - 1 page
- Chart Notes from Garry Taylor, DO, PA, 2/12/04 - 1 page
- Chart Notes from Garry Taylor, DO, PA 5/6/04 - 1 page
- Chart Notes from Garry Taylor, DO, PA, 7/6/04 - 1 page
- Chart Notes from Garry Taylor, DO, PA, 10/12/04 - 1 page
- Chart Notes from Garry Taylor, DO, PA, 11/10/04 - 1 page
- Chart Notes from Garry Taylor, DO, PA, 12/10/04 - 1 page

Duplicate Records Received:

- East Texas Medical Center Tyler Procedure Note, 12/22/03 - 1 page
- Tyler Neurosurgical Followup Visit, 12/5/03 - 1 page
- Tyler Neurosurgical Followup Visit, 8/29/03 - 2 pages
- Letter from Tyler Neurosurgical to Aaron Calodney, MD, 8/29/03 - 2 pages
- The Ortho Spine Clinic Independent Medical Examination, 8/12/04 - 2 pages
- Texas Back Institute Radiology Report, 9/22/03 - 1 page
- Texas Back Institute Consultation Report, 9/22/03 - 3 pages
- Tyler Neurosurgical Followup Visit, 8/29/03 - 1 page

- UniMed Direct LLC Review Determination, 9/21/04 - 1 page
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- Chart Notes from Garry Taylor, DO, PA, 7/6/04 - 1 page
- Chart Notes from Garry Taylor, DO, PA, 10/12/04 - 1 page
- Chart Notes from Garry Taylor, DO, PA, 11/10/04 - 1 page
- Chart Notes from Garry Taylor, DO, PA, 12/10/04 - 1 page

Summary of Treatment/Case History:

The patient is a forty four year old male who reportedly injured his thoracic spine on _____. The 9/15/02 thoracic MRI demonstrated minimal degenerative disk disease, with an otherwise normal exam. On the 10/02/02 follow up the patient reported continued thoracic pain for two months. On exam there was pain on palpation to the mid thoracic spine T5 to T8. The pain was noted to be more towards the facet joints and costovertebral musculature. A repeat closed MRI was recommended along with diagnostic facet injections. On the 12/06/02 follow up the patient reported only a thirty percent improvement in pain after the facet injections. He was maintained on medications, physical therapy and epidural injections were recommended.

The patient underwent the closed thoracic MRI on 4/14/03. The MRI demonstrated a small T 7-8 lateral disk protrusion with no cord compromise that was not present on the prior imaging study. The patient continued with conservative treatments of a neuromuscular stimulator, medications and was referred for a second opinion. The patient was evaluated at the Texas spine institute on 9/22/03. The physician opined that the patient should continue conservative care as long as possible as thoracic disk surgery was very difficult. The patient did undergo a series of epidural injections on 9/29/03, 10/30/03 and 12/23/03.

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The office notes dated 2/14/04 and 2/24/04 stated that the patient noted little change in his back pain with treatments to date, and that medication was no longer helping. There was continued tenderness at the T7 to T9 level; a discogram was recommended. As per the notes, the discogram was not approved by the carrier and the patient evaluated for nucleoplasty. On 8/12/04 the patient attended an Independent Medical Examination with Dr. Fook. Dr. Fook opined that the patient was not at maximum medical improvement and estimated another six months of continued conservative treatments. Dr. Fook also noted that the patient was not a surgical candidate, but might benefit from a nucleoplasty, despite the inherent risk of the procedure.

The patient was re-evaluated by Dr. Bosita at the Texas Spine Institute on 8/18/04 as the nucleoplasty was denied by the carrier. The physician noted the patient's exam was essentially normal, but opined he was a candidate for nucleoplasty. If nucleoplasty failed, then Dr. Bosita would be available for surgical consultation. On the 9/14/04 evaluation by Dr. Sutherland the patient reported a high pain level in the mid thoracic spine. On exam there was mild paravertebral spasms and tenderness to the left thoracic spine. Dr. Sutherland noted the diagnosis as thoracic discogenic pain and recommended a discogram to locate the pain generating level, followed by an MRI, as the last study was over year old. The request for thoracic disc replacement surgery was denied on 9/21/04 and the request for the thoracic MRI was denied on 10/07/04. The patient was seen monthly for medication refills with no reported improvement.

On 3/28/05 the patient was re-evaluated by Dr. Fook. Dr. Fook noted the patient demonstrated many Waddells signs despite an essentially normal exam. Dr. Fook opined that the patient was stable, and no longer required the use of muscle relaxants or anti spasmotic, but noted he would need pain medication for three more months only along with a chronic pain management program as the patient did have a positive MRI for a T 7-8 disk herniation. A note dated 6/10/05 indicated the request for a twelve week pain management program was denied, but the patient was approved for ten sessions. The patient was evaluated for the pain management program on 6/23/05 by Dr. Block. Dr. Block opined the patient was not a candidate for pain management and suggested a work reconditioning as an alternative for the patient.

As per the notes, the treating physician requested a repeat thoracic MRI to re-assess the thoracic spine. Apparently the request for the MRI was denied; the physician has request a review for disputed medical resolution.

Questions for Review:

Please determine medical necessity: Items in dispute: Pre auth denied for repeat MRI thoracic spine.

Explanation of Findings:

Please determine medical necessity: Items in dispute: Pre auth denied for repeat MRI thoracic spine

The repeat thoracic spine MRI cannot be recommended as being medically necessary. The patient has a small lateral left sided T7-8 disc protrusion, which is already known. However, there is no evidence that the patient has changed significantly in his pain complaints or physical examination. There is no

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documentation to indicate that a repeat thoracic MRI would change the clinical course in any significant way. There is no surgery that is pending, no change in the patient's clinical condition and no new physical changes or neurologic findings to warrant a repeat study.

Conclusion/Decision to Not Certify:

Repeat MRI thoracic spine is not recommended as medically necessary.

References Used in Support of Decision:

AAOS, Orthopedic Knowledge Update, Spine 2, chapter, 8, page 67.

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 Pennsylvania Medical Society, and the Pennsylvania Orthopaedic Society. The reviewer is certified in impairment rating evaluations through the Bureau of Workers Compensation. The reviewer has research and publication experience within their field of specialty. This reviewer has been in active practice since 1996.

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, 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.

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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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Case Analyst: Jamie C ext 583

Cc: requestor and respondent