

December 13, 2005

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-0383-01

CLIENT TRACKING NUMBER: M2-06-0383-01 IRO #5278

AMENDED DECISION 12/27/05

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 State:

- Notification of IRO Assignment, 12/2/05 - 2 pages
- Medical Dispute Resolution Request/Response, 12/2/05 - 3 pages
- Table of Disputed Charges, undated - 1 page
- Denial of Preauthorization or Concurrent Review Request, 10/26/05 - 2 pages
- Denial of Reconsideration of Preauthorization or Concurrent Review Request, 11/2/05 - 2 pages

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Records Received from Ward America:

- Texas Workers' Compensation Work Status Report, 4/21/03 - 1 page
- Medical Record Review, 2/3/03 - 2 pages
- Initial Medical Report, 4/21/03 - 1 page
- Texas Workers' Compensation Work Status Report, 4/24/03 - 1 page
- Texas Workers' Compensation Work Status Report, 5/1/03 - 1 page
- Imaging Report, 4/25/03 - 1 page
- Texas Workers' Compensation Work Status Report, 5/12/03 - 1 page
- Texas Workers' Compensation Work Status Report, 6/23/03 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 6/23/03 - 1 page
- Certificate for Return to School or Work, 6/17/03 - 1 page
- Texas Workers' Compensation Work Status Report, 6/17/03 - 1 page
- Office Visit Notes from Jorge E Rojero MD PA, 6/17/03 - 1 page
- Surgical Center of El Paso Operative Procedure Report, 7/1/03 - 2 pages
- Patient Diagnostic Report, 7/28/03 - 2 pages
- Texas Workers' Compensation Work Status Report, 7/14/03 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 7/14/03 - 1 page
- Texas Workers' Compensation Work Status Report, 7/15/03 - 1 page
- Patient Diagnostic Report, 7/28/03 - 3 pages
- Texas Workers' Compensation Work Status Report, 8/4/03 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 8/4/03 - 2 pages
- Texas Workers' Compensation Work Status Report, 8/26/03 - 1 page
- Texas Workers' Compensation Work Status Report, 8/12/03 - 1 page
- Office Visit Notes from Jorge E Rojero MD PA, 8/12/03 - 1 page
- Texas Workers' Compensation Work Status Report, 9/8/03 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 9/9/03 - 2 pages
- Surgical Center of El Paso Operative Procedure Report, 9/23/03 - 2 pages
- Texas Workers' Compensation Work Status Report, 9/25/03 - 1 page
- El Paso Occupational Health Clinic Notes, 9/25/03 - 1 page
- Preauthorization Referral Request, 9/24/03 - 1 page
- El Paso Occupational Health Clinic Notes, 10/23/03 - 1 page
- Texas Workers' Compensation Work Status Report, 11/18/03 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 11/18/03 - 2 pages
- Texas Workers' Compensation Work Status Report, 11/14/03 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 12/29/03 - 3 pages
- El Paso Occupational Health Clinic Notes, 11/20/03 - 1 page
- Las Palmas Diagnostic Exams Report, 2/4/04 - 2 pages
- El Paso Occupational Health Clinic Notes, 1/20/04 - 1 page
- Texas Workers' Compensation Work Status Report, 1/20/04 - 1 page
- Texas Workers' Compensation Work Status Report, 2/20/04 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 2/20/04 - 1 page
- Texas Workers' Compensation Work Status Report, 3/1/04 - 1 page
- Initial Consultation from Gregory R. Misenhimer MD, 3/1/04 - 3 pages

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- Letter from West Texas Neurosurgical Center PA to Ward North America, 3/8/04 - 1 page
- Texas Workers' Compensation Work Status Report, 3/8/04 - 1 page
- El Paso Occupational Health Clinic Notes, 1/20/04 - 1 page
- Texas Workers' Compensation Work Status Report, 3/23/04 - 1 page
- El Paso Occupational Health Clinic Notes, 3/23/04 - 1 page
- Texas Workers' Compensation Work Status Report, 3/24/04 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 3/24/04 - 1 page
- Letter from West Texas Neurosurgical Center PA to Texas Workers' Compensation Commission, 4/1/04 - 2 pages
- Medical Records Review, 4/20/04 - 2 pages
- Letter from West Texas Neurosurgical Center PA to Ward North America, 5/3/04 - 2 pages
- Texas Workers' Compensation Work Status Report, 5/20/04 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 5/20/04 - 1 page
- Texas Workers' Compensation Work Status Report, 6/10/04 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 6/10/04 - 1 page
- Emergency Room Record, 5/3/04 - 2 pages
- Texas Workers' Compensation Work Status Report, 8/16/04 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 8/16/04 - 1 page
- The El Paso Orthopaedic Surgery Group Clinic Note, 8/31/04 - 3 pages
- Texas Workers' Compensation Work Status Report, 9/13/04 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 9/13/04 - 2 pages
- Functional Abilities Evaluation, 9/20/04 - 16 pages
- Texas Workers' Compensation Work Status Report, 10/11/04 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 10/11/04 - 1 page
- Texas Workers' Compensation Work Status Report, 10/13/04 - 1 page
- El Paso Occupational Health Clinic Notes, 10/13/04 - 1 page
- DWC-69-Report of Medical Evaluation, 9/23/04 - 1 page
- Lumbosacral Spine Impairments, 9/23/04 - 1 page
- Lumbar Spine Measurement Summary, 9/23/04 - 1 page
- Texas Workers' Compensation Work Status Report, 9/13/04 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 9/13/04 - 2 pages
- Texas Workers' Compensation Work Status Report, 1/13/05 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 1/13/05 - 1 page
- Texas Workers' Compensation Work Status Report, 5/6/05 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 5/6/05 - 1 page
- Texas Workers' Compensation Work Status Report, 8/5/05 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 8/5/05 - 1 page
- Texas Workers' Compensation Work Status Report, 9/29/05 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 9/29/05 - 1 page
- Texas Workers' Compensation Work Status Report, 10/17/05 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 10/17/05 - 1 page
- Texas Workers' Compensation Work Status Report, 4/21/03 - 1 page
- Initial Medical Report, 4/21/03 - 1 page

- Texas Workers' Compensation Work Status Report, 5/19/03 - 1 page
- Texas Workers' Compensation Work Status Report, 8/12/03 - 1 page
- Office Visit Notes from Jorge E Rojero MD PA, 8/12/03 - 1 page
- Texas Workers' Compensation Work Status Report, 9/25/03 - 1 page
- El Paso Occupational Health Clinic Notes, 9/25/03 - 1 page
- El Paso Occupational Health Clinic Notes, 10/23/03 - 1 page
- El Paso Occupational Health Clinic Notes, 11/20/03 - 1 page
- Texas Workers' Compensation Work Status Report, 8/12/03 - 1 page
- Office Visit Notes from Jorge E Rojero MD PA, 8/12/03 - 1 page
- Surgical Center of El Paso Operative Procedure Report, 9/23/03 - 2 pages
- Letter from West Texas Neurosurgical Center PA to Ward North America, 3/24/04 - 1 page
- Texas Workers' Compensation Work Status Report, 10/11/04 - 1 page
- Letter from West Texas Neurosurgical Center PA to Ward North America, 10/11/04 - 1 page
- Texas Workers' Compensation Work Status Report, 10/13/04 - 1 page
- El Paso Occupational Health Clinic Notes, 10/13/04 - 1 page

Summary of Treatment/Case History:

The patient is a 44-year-old male. Date of injury was _____. In ____ he had some type of back injury. In 1/97 he had a left hemilaminectomy L4-5 for herniated disc. He had a complete recovery and went back to work. On 4/21/2003 he lifted a heavy barrel with cement and had onset of low back pain that persists until today. No complete relief with epidural steroid injection, facet injection, pain meds, any work, or physical therapy. Exam varies but most of time muscle spasm in low back, absent ankle jerks, SLR positive 30-40 degrees bilat. No specific muscle weakness most exams. Various diagnoses include HNP lumbar, lumbar radiculitis, spondylolisthesis, degenerative joint disease, facet hypertrophy, and chronic back pain. Request for lumbar laminectomy L3-4, L4-5, L5-S1 followed by fusion at all 3 levels. Three physicians support this and relate symptoms to injury. Another does not relate to injury and considers all symptoms due to degenerative joint disease which all agree the patient has. One does not support surgery. There is some confusion in records as fusion at 2 levels L3-4, L4-5 approved but surgeon does not want to do surgery unless 3 levels are done. There is a note that the individual returned to work Oct 2005 on it is assumed he is still at work. Statement he is to work 6 months to get insurance back and he will pay for L5-S1 level fusion while WCC pay for 2.

Questions for Review:

Pre authorization denied for lumbar laminectomy @ L3 - 4, L4 - 5 with fusion and lumbar CT.

Explanation of Findings:

There is degenerative joint disease in lumbar spine-wear and tear arthritis. The patient has non-specific findings in back of spasm and movement and chronic back pain that may be related to activity.

Conclusion:

Pre authorization denied for lumbar laminectomy @ L3 - 4, L4 - 5 with fusion and lumbar CT.

No surgery should be even considered until CT myelogram is done and reason for surgery clearly

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stated. It seems surgery was considered at one time for HNP but there is no evidence to support this in old studies. Stenosis was mentioned but does not have history of cauda equina claudication that is seen in this condition. Facet hypertrophy is present but facetectomy is not mentioned and had no relief from facet blocks. Most of changes seem to be related to degenerative joint disease and references will show surgery for this is very difficult to evaluate and results are not often improvement. ALSO if he can return to work and do so for 6 months would doubt surgery would help.

References Used in Support of Decision:

Chapman's Orthopedic Surgery, chapter 15 Degenerative Disc Disease, Pathophysiology, evaluation, Imaging, treatment. Cochrane Review Issue 2, 2005 Surgery for degenerative disc disease.

The specialist providing this review is board certified in Neurosurgery. The reviewer has served as the chief Neurosurgeon at several VA Hospitals throughout the country. The reviewer is a member of the American Medical Association, the American College of Surgeons, the American Paraplegia Society, Congress of Neurological Surgeons and the American Association of Neurosurgeons. The Reviewer has served as an association professor, assistant professor and clinical instructor at the university level. The reviewer also has publishing, presentation and research experience within their specialty. The reviewer has been in active practice for over 20 years.

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.

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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

S122705r

Cc: requestor and respondent