

March 3, 2006

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-0645-01

CLIENT TRACKING NUMBER: M2-06-0645-01-5278

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas 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, 2/16/06 - 2 pages
- Medical Dispute Resolution Request/Response, 2/16/06 - 3 pages
- Table of Disputed Services, undated - 1 page
- Texas Outpatient Reconsideration Decision: Non-Authorization, 12/2/05 - 2 pages
- Texas Outpatient Non-Authorization Recommendation, 11/16/05 - 2 pages

Records Received from the Requestor:

- Letter from Dr. Tucker to Dr. Kjeldgaard, 2/15/01 - 2 pages

(continued)

- Medical History, 2/15/01 - 1 page
- Electroneuromyography Report, 2/15/01 - 2 pages
- Electroneuromyography Report, 2/15/01 - 2 pages
- Letter from Dr. Tucker to Dr. Kjeldgaard, 7/2/01 - 2 pages
- Electroneuromyography Report, 7/2/01 - 1 page
- Texas Outpatient Certification Recommendation, 9/23/02 - 2 pages
- Electrodiagnostic Laboratory Nerve Conduction and EMG Report, 10/1/02 - 2 pages
- Letter from Dr. Tucker to Dr. Kjeldgaard, 10/1/02 - 1 pages
- Office Notes from Dr. Peters, 8/18/04 - 1 page
- Patient Information, 8/18/04 - 4 pages
- Office Notes from Dr. Peters, 6/27/05 - 1 page
- North Texas Orthopedics Office Notes, 6/27/05-10/31/05 - 9 pages

Records Received from the Respondent:

- Letter from Flahive, Ogden and Latson Attorneys at Law to MRloA, 2/24/06 - 2 pages
- Letter from Flahive, Ogden and Latson Attorneys at Law to Division of Workers' Compensation, 2/14/06 - 2 pages
- Medical Dispute Resolution Request/Response, 2/16/06 - 2 pages
- Table of Disputed Services, undated - 1 page
- Progress Notes from Dr. Hubbuch, 3/8/05 - 1 page
- Telephone Conversation from Richard Holmes, PA-C, 3/31/05 - 1 page
- Progress Notes from Dr. Hubbuch, 7/6/05-9/16/05 - 4 pages
- Operative Report, 10/28/05 - 2 pages
- Operative Report, 10/28/05 - 2 pages
- Progress Notes from Dr. Hubbuch, 11/14/05 - 1 page

Summary of Treatment/Case History:

The claimant is a 45-year-old gentleman who allegedly suffered a workplace injury on _____. Subsequently he developed low back pain. He eventually underwent at least 3 lumbar spine operations including 2 fusions of L4-S1. Despite this treatment, he continues to have low back pain that radiates to his left groin and buttock with numbness on the lateral aspect of the left leg. Physical examination reveals normal neurological findings including negative straight leg raising test. Although previous EMG's revealed signs of lumbar radiculopathy, the most recent of these that was submitted showed no sign of radiculopathy.

Questions for Review:

ITEM(S) IN DISPUTE: Preauthorization request: Left Lumbar Transforaminal ESI at L4 and L5, fluoroscopic guidance needle.

Explanation of Findings:

ITEM(S) IN DISPUTE: Preauthorization request: Left Lumbar Transforaminal ESI at L4 and L5, fluoroscopic guidance needle.

The claimant does not satisfy the usual selection criteria for lumbar transforaminal steroid injections, which are listed below. In particular there is no pain radiating below the knee in a dermatomal pattern, no positive straight leg raising test, no objected neurological abnormalities which would result from a radiculopathy and no electrophysiological findings consistent with lumbar radiculopathy. Therefore, such injections should not be considered to be medically necessary.

Conclusion/Decision to Not Certify:

The left lumbar transforaminal epidural steroid injections are not medically necessary.

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

Appropriate selection criteria for lumbar transforaminal epidural steroid injections are:

1. Acute radiculopathy evidenced by pain radiating below the knee in a dermatomal distribution of one or two of the lumbar dermatomes, and
2. Reproduction of the radiating pain by straight leg raising to 70 degrees or less, or
3. Reproducible neurological abnormalities such as dermatomal sensory diminution or myotomal motor weakness on the side of the pain, or
4. Electrophysiological findings consistent with lumbar radiculopathy.
5. Previous interlaminar or caudal epidural steroid injections have had inadequate effect in relieving the symptoms.

References Used in Support of Decision:

1. Vad, et al. (2002). Transforaminal epidural steroid injections in lumbosacral radiculopathy: a prospective randomized study. Spine 27:11-6.
2. Lutz, et al. (1998). Fluoroscopic transforaminal lumbar epidural steroids: an outcome study. Arch Phys Med Rehabil 79:1362-6.

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.

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'

(continued)

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. MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the DWC.

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.

1210917.1

Case Analyst: Jamie C ext 583

Cc: requestor and respondent