Medical Review Institute of America, Inc.
America's External Review Network

MRIoA

March 7, 2006

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

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M2-06-0800-01
CLIENT TRACKING NUMBER: M2-06-0800-01 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:

FROM THE STATE:

Notification of IRO assignment 2/24/06 – 1 page
Texas Department of Insurance Division of Workers' Compensation 2/24/06 – 1 page
Medical Dispute resolution request/response form – 2 pages
Provider form – 1 page
Table of disputed services – 1 page
Notice of intent to issue an adverse determination 1/13/06 – 1 page
Letter from Dr. Rosenstein, MD 1/12/06 – 1 page
Notice of utilization review findings 1/24/06 – 2 pages
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FROM THE RESPONDENT/Facility Ins. Co:

Letter from S. Rhett Robinson/Flahive, Ogden, & Latson 3/2/06 - 3 pages
Physician bill review findings 12/21/05 - 2 pages
Operative report 9/13/05 - 2 pages
Notice of utilization review findings 8/22/05 - 1 page
Operative report 3/29/05 - 2 pages
Notice of Utilization review findings 3/15/05 - 2 pages
Physician bill review findings 3/3/05 - 2 pages
CT of lumbosacral spine 2/1/05 - 1 page
Notice of utilization review findings 1/20/05 - 2 pages
Notice of utilization review findings 1/5/05 - 2 pages
Acknowledgement of reconsideration request 1/13/05 - 1 page
Operative report 1/23/04 - 2 pages
Notice of utilization review findings 4/28/04 - 2 pages
Letter from Jeremy Lord/Flahive, Ogden & Latson 2/17/06 - 2 pages
Medical dispute resolution request/response - 1 page
Provider form - 1 page
Table of disputed services - 1 page

FROM THE REQUESTOR/Jacob Rosenstein, MD:

Letter from Dr. Rosenstein, MD 1/9/06 - 1 page
CT of lumbosacral spine 2/1/05 - 1 page

Summary of Treatment/Case History:
The patient is a male who was injured on the job ___. CT scan on 2/1/05 shows fusion from L4-S1 with degenerative joint disease at the levels above the fusion. He has low back pain with tenderness and cannot extend his back past 0 degrees. He has had prior facet injections at L1-2, L2-3 and L3-4 on 9/13/05, 3/29/05 and 1/23/04 and Dr. Rosenstein states in his appeal letter that he had good results.

Questions for Review:

1. Item(s) in Dispute: Pre auth denied for bilateral facet injections at L1, L2-3, and L3-4.

Explanation of Findings:
This patient was injured on the job 14 years ago. He is seeing a physician for low back pain that has recommended intermittent injections of the joints. The insurance company is disputing the need for the injections.

Conclusion/Decision to Not Certify:

1. Item(s) in Dispute: Pre auth denied for bilateral facet injections at L1, L2-3, and L3-4.

Medicare guidelines note that clinical studies provide moderate evidence of short term relief and limited evidence of long term relief of chronic low back pain. Medicare guidelines state that indications for therapeutic facet blocks include:
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- "Nonresponsiveness to less invasive modalities of treatments except in acute situations such as acute disc herniation, herpes zoster and postherpetic neuralgia, reflex sympathetic dystrophy, and intractable pain secondary to carcinoma
- Pain and disability of moderate-to-severe degree
- No evidence of contraindications such as severe spinal stenosis resulting in intraspinal obstruction, infection, or predominantly psychogenic pain
- Responsiveness to prior interventions with improvement in physical and functional status to proceed with repeat blocks or other interventions
- Repeating interventions only upon return of pain and deterioration in functional status"

This patient does not have documented moderate to severe pain and disability, nor deterioration in functional status. The documentation by the practitioner also does not clearly note that he had improvement in physical and functional status after the previous blocks. In addition, it is not clear that he has recently tried less invasive modalities of treatment.

Medicare guidelines go on to state:

"In the therapeutic phase (after the stabilization is completed), the suggested frequency would be 2 months or longer between each injection, provided that at least >50% relief is obtained for 6 weeks." It is not documented that this patient ever achieved 50% relief. The response is qualified as "good."

Finally, medicare guidelines state:

"In the treatment or therapeutic phase, the interventional procedures should be repeated only as necessary judging by the medical necessity criteria, and it is suggested that these be limited to a maximum of six times for local anesthetic and steroid blocks for a period of 1 year." This patient has been receiving facet injections since at least 2004. His injury was 14 years ago.

Facet injections have not produced lasting relief for this patient. Other less invasive modalities should be tried.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:
Medicare guidelines for facet injections available online at:
http://www.guideline.gov/summary/summary.aspx?ss=15&doc_id=3598&nbr=2824

The physician providing this review is board certified in Neurosurgery. This reviewer is a diplomate of the National Board of Medical Examiners. This reviewer is a member of the American Association of Neurological Surgeons, the Texas Medical Association and the Society for Neuro Oncology. This reviewer has been in active practice since 1999.

Your Right To Appeal

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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. 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.

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Case Analyst: Cherstin B ext 597

cc: Requestor
Respondent