

March 3, 2006

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-0824-01

CLIENT TRACKING NUMBER: M2-06-0824-01

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, 2/23/06 - 2 pages
- Medical Dispute Resolution Request/Response, 2/23/06 - 5 pages
- Table of Disputed Services, undated - 1 page
- Letter from Utilization Nurse to Dean McMillian, 1/11/06 - 2 pages
- Letter from Insurance to Pain and Recovery Clinic McMillian, 1/31/06 - 1 page
- Letter from Stone, Loughlin, and Swanson LLP to Texas Department of Insurance, 2/21/06 - 2 pages

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Records Received from the Requestor:

- Request for Reconsideration from Pain and Recovery Clinic of North Houston, 9/17/05 - 3 pages
- Summary Report from Michele G. Zamora, MED, LPC, 9/7/05 - 2 pages
- Mental Health Evaluation from Denise Turboff, MED, LPC, 8/23/05 - 6 pages
- Concurrent Report from Pain and Recovery Clinic of North Houston, 12/23/05 - 2 pages
- Concurrent Report from Pain and Recovery Clinic of North Houston, 1/9/06 - 2 pages
- Request for Reconsideration from Pain and Recovery Clinic of North Houston, 1/24/06 - 2 pages

Records Received from the Respondent:

- Response to IRO Records Request from Stone, Laughlin, and Swanson LLP, 3/1/06 - 6 pages
- Letter from Utilization Nurse to Dean McMillian, 1/11/06 - 2 pages
- Letter from Insurance to Pain and Recovery Clinic McMillian, 1/31/06 - 1 page
- Letter from John A. Sklar MD to Beverlee DeBerry, RN, 4/18/05 - 4 pages
- Designated Doctor Evaluation, 12/2/05 - 5 pages
- Directions in Prescriptive Chronic Pain Management Based on Diagnostic Characteristics of the Patient Article, 9/98 - 20 pages
- Texas Workers' Compensation Work Status Report, 11/17/04 - 1 page
- Initial Medical Report from Pain and Recovery Clinic of North Houston, 11/17/04 - 3 pages
- Texas Workers' Compensation Work Status Report, 12/3/04 - 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 12/3/04 - 1 page
- AP and Lateral Views of the Lumbosacral Spine Imaging Report from North Houston Imaging Center, 12/9/04 - 1 page
- Texas Workers' Compensation Work Status Report, 12/17/04 - 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 12/17/04 - 2 pages
- Motor and Sensory Nerve Studies from Texas Electrophysiology Services, Inc, 1/5/05 - 5 pages
- Texas Workers' Compensation Work Status Report, 1/14/05 - 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 1/14/05 - 2 pages
- Physical Therapy Notes from Pain and Recovery Clinic of North Houston, 1/17/05 - 2 pages
- Follow-Up Notes from Shanti Pain and Wellness, PA, 1/28/05 - 1 page
- Assessment/Physical Examination from Shanti Pain and Wellness Clinic, PA, 2/11/05 - 4 pages
- Texas Workers' Compensation Work Status Report, 2/17/05 - 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 2/17/05 - 2 pages
- Physical Therapy Notes from Pain and Recovery Clinic of North Houston, 3/2/05 - 3 pages
- Letter from Pain and Recovery Clinic of North Houston to Ogletree Law Firm, 3/10/05 - 2 pages
- Letter from Ogletree Law Firm to Unknown Recipient, 3/10/05 - 1 page
- Texas Workers' Compensation Work Status Report, 3/16/05 - 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 3/15/05 - 2 pages
- Notice of Disputed Issues and Refusal to Pay Benefits from CNA to Patient, 3/25/05 - 1 page
- Follow-Up Notes from Shanti Pain and Wellness, PA, 4/8/05 - 1 page

- Texas Workers' Compensation Work Status Report, 4/14/05 - 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 4/14/05 - 2 pages
- Work Hardening Assessment Psychosocial History from Denise Turboff, MED, LPC, 4/26/05 - 3 pages
- Lumbar Transforaminal With Catheter L4, L5 Bilateral from Texas Surgicom at Houston Community Hospital, 4/28/05 - 3 pages
- Functional Capacity Assessment from Gulf Coast Functional Testing, 5/3/05 - 12 pages
- Request for Pre-Authorization, Concurrent Review, and Voluntary Certification per SWC Adopted Amended Rule 134.600 from Pain and Recovery Clinic of North Houston, 5/4/05 - 1 page
- Pre-Authorization Request from Pain and Recovery Clinic of North Houston, 5/4/05 - 3 pages
- Letter from Pain and Recovery Clinic of North Houston to Dr. Hassett, 5/5/05 - 1 page
- Texas Workers' Compensation Work Status Report, 5/11/05 - 1 page
- Group Session Monitoring Form from Physical Medicine and Functional Testing, 5/12/05-6/1/05 - 6 pages
- DWC-69 Report of Medical Evaluation, 6/23/05 - 1 page
- Designated Doctor Evaluation, 6/3/05 - 5 pages
- Request for Pre-Authorization, Concurrent Review, and Voluntary Certification per SWC Adopted Amended Rule 134.600 from Pain and Recovery Clinic of North Houston, 6/6/05 - 1 page
- Concurrent Review Request (Work-Hardening) from Pain and Recovery Clinic of North Houston, 6/6/05 - 2 pages
- Work Capacity Evaluation from Gulf Coast Functional Testing, 6/6/05 - 8 pages
- Texas Workers' Compensation Work Status Report, 6/8/05 - 1 page
- Group Session Monitoring Form from Physical Medicine and Functional Testing, 6/8/05 - 1 page
- Request for Reconsideration from Pain and Recovery Clinic of North Houston, 6/9/05 - 2 pages
- Letter from Concerta to Nestor Martinez, DC, 6/9/05 - 2 pages
- Request for Pre-Authorization, Concurrent Review, and Voluntary Certification per SWC Adopted Amended Rule 134.600 from Pain and Recovery Clinic of North Houston, 6/15/05 - 1 page
- Letter from Concerta to Patient, 6/23/06 - 1 page
- Texas Workers' Compensation Work Status Report, 7/6/05 - 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 6/6/05 - 1 page
- Texas Workers' Compensation Commission Hearings Division Decision and Order, 4/27/05 - 5 pages
- Notice of Disputed Issues and Refusal to Pay Benefits from CNA to Patient, 7/12/05 - 1 page
- Texas Workers' Compensation Work Status Report, 8/9/05 - 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 8/9/05 - 2 pages
- Individual Psychotherapy Progress Notes from Pain and Recovery Clinic of North Houston, 8/24/05-8/31/05 - 3 pages
- Request for Pre-Authorization, Concurrent Review, and Voluntary Certification per SWC Adopted Amended Rule 134.600 from Pain and Recovery Clinic of North Houston, 9/8/05 - 1 page
- Letter from Pain and Recovery Clinic of North Houston to Edid G. Ramos-Rivas, MD, 9/9/05 - 1 page
- Letter from Concerta to Patient, 9/13/05 - 1 page

- Request for Reconsideration from Pain and Recovery Clinic of North Houston, 9/17/05 - 3 pages
- Request for Pre-Authorization, Concurrent Review, and Voluntary Certification per SWC Adopted Amended Rule 134.600 from Pain and Recovery Clinic of North Houston, 9/19/05 - 1 page
- Texas Workers' Compensation Work Status Report, 10/18/05 - 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 10/18/05 - 2 pages
- Pain Management Group Session Monitoring Form from Behavioral Chronic Pain Management Program, 10/18/05 - 3 pages
- Massage Therapy Session from Pain and Recovery Clinic Chronic Pain Management Program, 10/18/05 - 1 page
- Daily Activity Sheet from Chronic Pain Management Program, 10/18/05 - 2 pages
- Pain Management Group Session Monitoring Form from Behavioral Chronic Pain Management Program, 10/19/05 - 4 pages
- Daily Activity Sheet from Chronic Pain Management Program, 10/19/05 - 1 page
- Pain Management Group Session Monitoring Form from Behavioral Chronic Pain Management Program, 10/20/05 - 4 pages
- Massage Therapy Session from Pain and Recovery Clinic Chronic Pain Management Program, 10/20/05 - 1 page
- Daily Activity Sheet from Chronic Pain Management Program, 10/20/05 - 1 page
- Pain Management Group Session Monitoring Form from Behavioral Chronic Pain Management Program, 10/21/05 - 4 pages
- Daily Activity Sheet from Chronic Pain Management Program, 10/21/05 - 1 page
- Pain Management Group Session Monitoring Form from Behavioral Chronic Pain Management Program, 11/28/05 - 4 pages
- Massage Therapy Session from Pain and Recovery Clinic Chronic Pain Management Program, 11/28/05 - 1 page
- Daily Activity Sheet from Chronic Pain Management Program, 11/28/05 - 1 page
- Texas Workers' Compensation Work Status Report, 11/29/05 - 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 11/29/05 - 1 page
- Pain Management Group Session Monitoring Form from Behavioral Chronic Pain Management Program, 11/29/05 - 4 pages
- Daily Activity Sheet from Chronic Pain Management Program, 11/29/05 - 1 page
- Pain Management Group Session Monitoring Form from Behavioral Chronic Pain Management Program, 12/1/05 - 3 pages
- Daily Activity Sheet from Chronic Pain Management Program, 12/1/05 - 1 page
- Patient Information Physical Medicine and Functional Testing from Pain and Recovery Clinic of North Houston, 11/15/04 - 1 page
- DWC-69 Report of Medical Evaluation, 12/2/05 - 1 page
- Letter from Southwest Orthopedic Group LLP to Dean McMillan, MD, 12/12/05 - 2 pages
- Prescription for MRI Lumbar from Stephen I. Esses, MD, 12/12/05 - 1 page
- Request for Pre-Authorization, Concurrent Review, and Voluntary Certification per SWC Adopted Amended Rule 134.600 from Pain and Recovery Clinic of North Houston, 12/27/05 - 1 page

- Texas Workers' Compensation Work Status Report, 12/29/05 – 1 page
- Subsequent Medical Report from Pain and Recovery Clinic of North Houston, 12/29/05 – 2 pages
- Letter from Concentra to Patient 1/9/06 – 3 pages
- AP and Lateral Views of the Lumbosacral Spine Imaging Report from North Houston Imaging Center, 1/23/06 – 2 pages
- Request for Pre-Authorization, Concurrent Review, and Voluntary Certification per SWC Adopted Amended Rule 134.600 from Pain and Recovery Clinic of North Houston, 1/25/06 – 1 page
- Texas Workers' Compensation Work Status Report, 1/31/06 – 1 page
- Letter from Concentra to Patient 1/31/06 – 3 pages
- Duplicate Records from the Respondent, Various Dates – 14 pages

Summary of Treatment/Case History:

The patient is a 34-year-old male with a date of injury of _____. His MRI showed protrusions at L4-S1 but he was never deemed surgical as his EMG was normal. He had interventional pain management in the form of 2 ESIs with some success. After an FCE in 5/05 which indicated he was performing at a light duty level and his job required heavy, 20 work hardening sessions were requested and done in 5/05 to 6/05 with the patient receiving little benefit. Due to psychosocial problems, 4 individual psychotherapy sessions were done in 8/05. Finally, 25 chronic pain sessions were done. The pain program is now asking for 10 additional sessions although the initial recommendation on 8/23/05 was for 20 sessions which is a standard duration of a chronic pain program. He entered the pain program on flexeril and darvocet which he had been taking since 11/04; no other medications were tried. His BDI testing was 23 indicating moderate depression; BAI was 30 indicating moderate anxiety.

Interestingly enough, at his work hardening evaluation months earlier, his BDI was 11, BAI was 15 and both indicate mild levels of depression and anxiety. This indicates the patient worsened while in work hardening or after it. He began a pain program in 10/05. His evaluation after 17 sessions of the pain program on 12/23/05 stated he demonstrated a good grasp of pain management skills, he is worried about reinjury but has improved considerably and is following up with vocational rehab. It stated his depression and anxiety levels have dropped although does not quantify them. It stated he rarely isolates himself and is much more active. His pain scores are not listed. Medications are not listed although his PCP note of 11/29/05 states the pt is taking flexeril and darvocet still in the same amounts as before the pain program. Also, his PCP note of 12/29/05 puts him on Lyrica for pain.

There is a second pain program evaluation dated 1/9/06 which states the pt has completed 23 sessions. It states he is in the final stages of planning vocational changes, his pain is 3/10 (there is nothing provided from earlier pain program notes to compare this to although his PCP notes from 1/05 say it is a 6/10 and a 4/10 in 12/05), his depression and anxiety scores are not listed. Medications are not listed but the PCP notes of around the same time have him taking the same flexeril, darvocet, and newly added Lyrica. The pain evaluation of 1/9/06 recommends 5 more sessions. The surgical consult of 12/05 while the patient was in the pain program recommended a new MRI for possible surgery.

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Questions for Review:

Pre authorization request: Chronic Pain Management Program 10 sessions (#97799-CP).

Explanation of Findings:

Pre authorization request: Chronic Pain Management Program 10 sessions (#97799-CP).

The patient is a 34-year-old male with a history of chronic back pain after a work injury in _____. The patient was immediately placed on flexeril and darvocet and remained on these medications despite ESIs, PT, a full work hardening program, psychotherapy, and a 23 session pain program. Lyrica was even added for neuropathic pain control while in the pain program. His earliest pain scores were noted to be 6/10 in 1/05 and 3-4/10 by the end of all this therapy and the pain program. He had elevated levels of depression and anxiety to justify entrance into the pain program but no subsequent testing to objectively show improvement. He was noted to be less depressed and anxious, more functional, and to be retraining while in the pain program. The patient was suggested to have 20 sessions in his evaluation of 8/05. This is a reasonable amount. He actually had 23 with a request for 5 more. This is not reasonable. The patient has not shown any improvement with regards to his medication requirements; he actually added a medication while in the pain program. His pain scores have minimally changed and this is after injections, PT, work hardening, and a full pain program. His surgeon is suggesting surgery at the end of the pain program. All of these indicators do not support more pain sessions as the patient has made little to no progress with the 20 session pain program and all therapy which went before it.

Conclusion/Decision to Not Certify:

The additional 10 sessions of a Chronic Pain Management Program are not medically necessary.

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

Criteria used are common practice among osteopathic and pain physicians.

References Used in Support of Decision:

1. Bonica's Management of pain third edition copyright 2000.
2. ACOEM guidelines copyright 2004.

The physician providing this review is board certified in Anesthesiology and is a doctor of Osteopathy. The reviewer is currently an attending physician at a major medical center providing anesthesia and pain management services. The reviewer has participated in undergraduate and graduate research. The reviewer has been in active practice since 1988.

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.

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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. 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: Jamie C ext 583

CC: requestor and respondent