

MCMC

IRO Medical Dispute Resolution M2 Prospective Medical Necessity IRO Decision Notification Letter

Date:	03/30/2006
Injured Employee:	_____
Address:	_____
MDR #:	M2-06-0831-01
DWC #:	_____
MCMC Certification #:	IRO 5294

REQUESTED SERVICES:

Please review the item(s) in dispute: Pre-authorization request-posterior spinal fusion L5-S1, bilateral L5-S1 foraminotomies, bone morphogenetic protein (BMP), anterior fusion L5-S1, length of stay (LOS), brace and cryo unit for ten days rental, and bone growth stimulator.

DECISION: Upheld

IRO MCMC llc (MCMC) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO) to render a recommendation regarding the medical necessity of the above disputed service.

Please be advised that a MCMC Physician Advisor has determined that your request for an M2 Prospective Medical Dispute Resolution on 03/30/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The request for posterior spinal fusion L5-S1, bilateral L5-S1 foraminotomies, bone morphogenetic protein (BMP), anterior fusion L5-S1, length of stay (LOS), brace and cryo unit for ten days rental, and bone growth stimulator is not medically necessary.

CLINICAL HISTORY:

This 41-year-old female felt a “pull and pain” in her low back on ___ while working as a waitress carrying a tray “with four large dinners on it”. Dr. Calvo [orthopedics] evaluated her on 12/07/2004. She was complaining of back pain radiating to the buttock and upper right leg. She was treated with muscle relaxants. She was 5’9” tall and weighed a 175 pounds. She smoked one pack a day.

On examination she has some tenderness over the lumbar spine and right sacroiliac (SI) joints. Straight leg raise (SLR) test was positive at 45 degrees producing back and right hip pain. There was no neurological deficit. X-rays did not reveal any disc space narrowing. Because of leg pain she was placed on Prednisone.

The MRI of 12/15/2004 revealed degenerative joint disease (DJD) at L5/S1 and a grade I spondylolisthesis of L5/S1. There was a right-sided disc herniation that appeared to compress the right S1 nerve root. On 12/20/2004 based on increasing symptoms, epidural steroid injections (ESIs) were recommended. These were given on 01/04/2005, 01/20/2005, and 02/09/2005.

Dr. Ratliff evaluated the injured individual on 02/25/2005 for a Report of Medical Evaluation (RME). She claimed that walking, standing and sleeping has been effected by the alleged injury. She was on Ibuprofen, Darvocet and Flexeril. She reported worse pain at night. On examination she had a slightly positive SLR test on the left at 90 degrees and no other neurological findings of nerve root compression or irritation.

She had a Functional Capacity Exam (FCE) performed on the same day and this revealed a submaximal effort on the part of the injured individual. The examination revealed that she did not meet her definition of work requirements. She believed her work to be classified as heavy labor.

Dr. Siddiqi [NS] evaluated her on 03/09/2005 for complaints of low back and bilateral leg pain worse on the right with numbness and tingling. Dr. Siddiqi noted the SLR test was positive on the right at 50 degrees and the left at 60 degrees. There was a trace of weakness in the right plantar flexors. On 03/22/2005 Dr. Siddiqi stated that since she was still having symptoms surgical treatment was an option. On 05/02/2005 the injured individual stated that she was still having pain and wished to undergo surgical treatment. On 05/16/2005 she underwent a right partial laminectomy, foraminotomy, and discectomy.

The MRI of 06/10/2005 revealed the post-operative changes at L5/S1 and an 8mm right disc herniation with extrusion resulting in mild to moderate canal stenosis but no foraminal stenosis. In addition there was a small hematoma at L4/5 in the subcutaneous fat. Dr. Calvo saw her again on 06/17/2005 complaining of the same symptoms. She claimed to be unable to dorsiflex her foot. On 07/15/2005 because of increasing pain in the low back going back on the right lower extremity, a series of epidural steroid injections were recommended. These were given on 07/25 and 08/04/2005.

On 09/02/2005 she claimed to be miserable because of low back pain that was constant. It was burning and stabbing in nature and prevented her from getting up. She claimed to have weakness in her leg. Dr. Calvo placed her on antidepressant and recommended physical therapy (PT). He also suggested she work at a sedentary level for four hours a day. On 10/03/2005 she was apparently tolerating her work activities. She was to continue with PT as the therapist felt that she had made considerable progress.

On 10/24/2005 she now claimed to be much worse. The Physical Therapist did not believe she would benefit from any additional PT. On examination she had a positive SLR test bilaterally. No other physical findings were documented. She was to continue at light duty and given a

Medrol Dosepak in an attempt to alleviate her symptoms. Dr. Siddiqi had apparently believed she needed a fusion. He referred her to Dr. Khushwaha for a second opinion. This appointment was changed and she was to be evaluated by Dr. Francis. She went back to see Dr. Siddiqi on 11/15/2005. She had no change in her physical findings.

Dr. Francis evaluated her on 11/17/2005 for complaints of back and right leg pain. He summarized the previous treatment and the MRI findings. SLR test allegedly produced low back pain on both sides. There were no other objective clinical findings. He recommended another MRI study that was obtained on 12/20/2005. The study revealed disc desiccation and scar tissue at the site of the previous surgery. There is no evidence of a recurrent disc herniation, or discitis or arachnoiditis.

Dr. Francis re-evaluated her on 12/29/2005 and he claimed that there Modic type II end-plate changes at L5 and S1 levels. He now stated that the flexion extension x-rays obtained in his office on 11/17/2005 revealed instability at L5/S1 with retrolisthesis of L5 on S1. However, this contradicts his notation in the office note of 11/17/2005 wherein he states that there was no abnormal translation on the flexion extension x-rays, at the same time he stated that the injured individual did not put in a maximum effort due to complaints of pain.

Based on the new interpretation of the old x-rays, she was now stated to have instability at L5/S1. He believed that the scar tissue would account for leg symptoms. He recommended a fusion at L5/S1 with bilateral foraminotomies. Dr. Calvo in a note dated 01/19/2006 documents that the fusion would apparently relieve her symptoms and allow her to stop taking narcotic pain medications and return to work in a more productive capacity. Because of persistent pain the only recommendation at the time of subsequent office visits was a fusion.

Dr. Ratliff reviewed additional medical records on 01/26/2006. In his opinion the latest MRI study failed to reveal any findings that would substantiate the requested surgery. He again recommended pain medications, light duty and an FCE.

On 03/09/2006 Dr. Bole performed a one-time evaluation on the injured individual. It is interesting that in the section titled "past medical history" he makes a notation "past surgeries none". However the note does include the laminectomy/discectomy performed on 05/16/2005. Physical examination revealed a slightly obese individual in no acute distress. She had no tenderness in her low back and had a normal gait. The SLR test was negative and she had a normal neurological examination. The Attending Physician only commented that she was not at maximum medical improvement (MMI) status. It appears that this evaluation was purely to establish MMI status.

REFERENCE:

Lumbar fusion versus non-surgical treatment for chronic low back pain: a multicenter randomized controlled trial from the Swedish Lumbar Spine Study Group: Fritzell, P., et al: Spine (2002): 27: 1680-1686. (Volvo Award Winner in clinical studies).

RATIONALE:

This injured individual's complaints of back and leg pain from the beginning have not been commensurate with a specific radiculopathy. It is true that the initial MRI did reveal a disc herniation on the right at L5/S1. The operative note has not identified the presence of a massive disc herniation. There was a disc protrusion that was separated from the end-plate with a scalpel and there were some fragments in the disc space that was removed. The latest MRI study revealed minimal post-operative changes without evidence of any disc herniation. There was also no objective, clinical or imaging finding of instability. There were no pathological changes of sufficient magnitude to warrant the requested procedure. The injured individual complaints, as documented in the available clinical notes, were consistently out of proportion to and not commensurate with the objective clinical findings. Therefore the proposed procedure is inappropriate and not warranted.

RECORDS REVIEWED:

- Notification of IRO Assignment dated 03/02/06
- MR-117 dated 03/02/06
- DWC-60
- DWC-69: Report of Medical Evaluation signed 03/09/05
- DWC-73: Work Status Reports dated 12/13/04 through 02/02/06 and four undated
- Churchill Evaluation Centers: Report of Medical Evaluation dated 03/09/06 from Prafull Bole, M.D. with attached Review of Medical History and Physical Examination
- MCMC: Statement dated 03/02/06
- Diagnostic Imaging Institute: Oswestry Low Back Pain Disability Questionnaire, McGill Pain Questionnaire, Dallas Pain Questionnaire dated 02/28/05
- Hugh W. Ratliff, M.D.: Letters dated 01/26/06, 02/25/05
- Intracorp: Letters dated 01/23/06, 01/17/06, 01/12/06, 01/09/06 from Intracorp Medical Department
- Cypress Orthopedics: Letters dated 12/22/05, 11/14/05, 07/29/05, 07/15/05, 07/05/05, 06/17/05, 06/03/05 from Rolando de Luna, PAC
- LuMar Diagnostic Imaging: MRI lumbar spine dated 12/20/05
- Intracorp: Letter dated 12/20/05 from Sandra Horton, Medical Review Specialist
- Texas Spine Center: Follow Up notes dated 11/15/05, 05/02/05, 04/20/05, 03/22/05 from Shah Siddiqi, M.D.
- Northwest Surgery Center: Operative Reports (Directed, multi-level lumbar epidurography with interpretation procedures) dated 08/04/05, 07/25/05, 02/09/05, 01/20/05, 01/04/05 from R. David Calvo, M.D.
- Northwest Surgery Center: Operative Reports dated 08/04/05, 07/25/05, 02/09/05, 01/20/05, 01/04/05 from R. David Calvo, M.D.
- Intracorp: Letters dated 08/02/05, 06/09/05, 04/05/05 from Mirela Garcia, Medical Review Specialist

- NW Surgery Center: Physical Therapy Prescription Forms dated 07/25/05, 02/04/05, 01/20/05, 01/04/05
- Northwest Surgery Center: Anesthesia Records dated 07/25/05, 02/09/05, 01/20/05, 01/04/04
- Intracorp: Letter dated 07/21/05 from Katie O'Connor, Medical Review Specialist
- Progress Notes (handwritten) dated 07/01/05, 06/29/05, 06/27/05
- Horizon Open MRI of NW Houston: MRI lumbar spine dated 06/10/05
- Appointment form dated 06/10/05
- NW Houston: MRI referral form dated 06/10/05
- The Methodist Willowbrook Hospital: Fluoroscopy dated 05/16/05, chest radiographs dated 05/10/05
- Willowbrook Consultation report dated 05/16/05 from Muhammad Hanif, M.D.
- Willowbrook Operative Report dated 05/16/05 from Shah Siddiqi, M.D.
- Methodist Willowbrook Hospital: Anesthesia Record dated 05/16/05
- Methodist Willowbrook Hospital: Pre-Op Questionnaire dated 05/16/05
- R. R. Yalamanchili, M.D.: Progress Notes (handwritten) dated 04/20/05, 04/01/05
- R.R. Yalamanchili, M.D.: Note dated 04/12/05 (handwritten)
- Neurosurgery & Spinal Disorders: Patient Information Sheet dated 03/09/05
- Neurosurgery & Spinal Disorders: Doctor's notes dated 03/09/05 through 12/19/05 (handwritten)
- Cypress Fallbrook Physical Therapy: Notes dated 03/09/05 through 04/29/05 (handwritten)
- Diagnostic Imaging Institute, Inc.: Functional Abilities Evaluation dated 02/25/05
- NW Surgery Center: Routine Pre-Op Orders for Pain Management dated 02/09/05
- Cypress Orthopedics: Pre-authorization Request Form dated 01/31/05
- Fallbrook Open MRI: MRI lumbar spine dated 12/15/04
- Patient Face Sheet dated 12/10/04
- Cypress Orthopedics: Reports dated 12/07/04 through 02/02/06 from Susan Herdman, PAC
- Methodist Willowbrook Hospital: Emergency Nursing Record dated 12/01/04
- Methodist Willowbrook Hospital: Emergency Physician Record dated 12/01/04
- NW Surgery Center: Surgery Posting forms (two, undated)

The reviewing provider is a Licensed/Boarded Orthopedic Surgeon and certifies that no known conflict of interest exists between the reviewing Orthopedic Surgeon 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 prior to referral to the IRO. The reviewing physician is on DWC's Approved Doctor List.

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.

This decision is deemed received by you 5 (five) days after it was mailed (28Tex.Admin. Code 102.4(h)(2) or 102.5(d)). A request for a hearing **and a copy of this decision** should be sent to:

Chief Clerk of Proceedings / Appeals Clerk
Texas Department of Insurance Division of Workers' Compensation
P.O. Box 17787
Austin, Texas, 78744
Fax: 512-804-4011

The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U. S. Postal Service from the office of the IRO on this

30th day of March 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____