

March 29, 2006

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

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-0847-01

CLIENT TRACKING NUMBER: M2-06-0847-01

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:

FROM THE STATE:

Notification of IRO assignment 3/6/06 - 1 page

Texas Department of Insurance Workers' Compensation Division form 3/6/06 - 1 page

Medical dispute resolution request/response form - 2 pages

Provider form - 1 page

Table of disputed services - 1 page

Letter from Ingrid Smith, CI rep/Constitution State Services 1/11/06 - 2 pages

Letter from Ingrid Smith, CI rep/Constitution State Services 1/18/06 - 3 pages

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FROM THE RESPONDENT:

Letter from Steven M. Tipton/Flahive, Ogden & Latson 3/16/06 - 2 pages

Letter from Charles Finch/Flahive, Ogden & Latson 3/2/06 - 2 pages

FROM THE REQUESTOR:

Letter from Dr. Chau, MD 3/23/05 - 2 pages

Chart notes 3/28/05 - 2 pages

Letter from Dr. Chau, MD 5/9/05 - 2 pages

Chart notes 5/25/05 - 1 page

Chart notes 6/6/05 - 2 pages

Chart notes 7/18/05 - 1 page

Medical narrative 7/21/05 - 3 pages

Motor nerve conduction study report 8/18/05 - 3 pages

Letter from Dr. Chau, MD 8/19/05 - 2 pages

Letter from Dr. Chau, MD 9/19/05 - 2 pages

Chart notes 9/27/05 - 1 page

Letter from Dr. Chau, MD 10/24/05 - 2 pages

Evaluation summary 11/9/05 - 3 pages

General extremity flow sheet 11/7/05 - 1 page

Exercise flow sheet 11/1/05 - 1 page

Daily note 11/11/05 - 1 page

Daily note 11/15/05 - 1 page

Daily note 11/17/05 - 1 page

Daily note 11/21/05 - 1 page

Chart notes 12/7/05 - 1 page

History and physical 12/13/05 - 2 pages

MRI lumbar spine report 12/22/05 - 1 page

Repeat designated doctor exam 12/28/05 - 4 pages

Chart notes 1/3/06 - 2 pages

Chart notes 1/16/06 - 2 pages

Chart notes 2/13/06 - 2 pages

FROM TEXAS PAIN INSTITUTE:

Operative report 3/18/05 - 2 pages

Chart notes 10/27/05 - 2 pages

Chart notes 11/25/05 - 2 pages

Chart notes 12/29/05 - 2 pages

Chart notes 1/26/06 - 2 pages

Chart notes 2/16/06 - 2 pages

Summary of Treatment/Case History:

The patient is a 52 year old female who reportedly fell at work and sustained injuries to her neck and back. On 10/04/04 the patient underwent an anterior cervical laminectomy and arthrodesis of C5-6 and C6-7. On 03/18/05 the patient underwent a translumbar epidural steroid injection at L5 and S1 under fluoroscopy.

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Dr. Chau submitted a letter dated 03/23/05 that documented that the patient continued to experience neck and back pain with examination findings of decreased extensor hallucis longus and plantar flexors in the right as a result of a disc herniation at L5-S1. Dr. Chau recommended surgical intervention. On 03/28/05, examination by Dr. Chau noted bilateral sacroiliac pain and a negative left straight leg raise in addition to decreased extensor hallucis longus and plantar flexors on the right leg. Physical therapy for the cervical spine was prescribed, in addition to a discectomy and laminectomy. Dr. Chau referred the patient for neurosurgical examination on 07/18/05.

Dr. Caran examined the patient on 07/21/05 and noted that she used a crutch for ambulation because of decreased sensation and reflex function in the right lower extremity. Dr. Caran documented that an MRI showed a small disc herniation at L5-S1 lateralized to the right and x-rays showed spondylotic changes with grade I spondylolisthesis and spondylolysis at L5-S1. The report stopped and did not document any treatment recommendations. On 08/18/05 electrodiagnostic studies revealed moderate right L5 radiculopathy and peripheral polyneuropathy in the lower extremities. Dr. Chau prescribed a walking boot for right foot drop on 08/19/05.

Dr. Moldovan examined the patient on 08/24/05 with continued back and neck pain. Physical findings included straight leg raising in supine position caused back pain at 10 degrees and lateral flexion caused back pain across the midline, breakaway weakness of the right and left quadriceps femoris, anterior tibialis and extensor hallucis and hypesthesias of the right leg in L4-S1 pattern. Medications were prescribed. Dr. Caran examined the patient on 09/27/05 and opined that surgery was not recommended. The patient remained under treatment by Dr. Chau and Dr. Nguyen and participated in physical therapy in 11/05.

At the request of Dr. Chau, Dr. Francis examined the patient on 12/13/05 and documented a normal gait, the inability to heel and toe walk, and decreased right anterior tibialis, foot evertors and extensor hallucis longus with sensation diminished over the right lateral calf and dorsum of the foot. Deep tendon reflexes were diminished at both ankles. Because of the neurologic deficit, Dr. Francis requested a repeat MRI. The lumbar MRI dated 12/22/05 showed spondylosis and mild bilateral L4 to S1 neural foraminal narrowing with disc bulges at L4-5 and L5-S1. On 01/03/06, Dr. Francis recommended exploration and decompression of the L5 nerve root with stabilization and fusion of L5-S1 for back pain and possible improvement of the right foot drop.

A designated doctor's examination by Dr. Roberts dated 12/28/05 documented that the patient had inconsistencies in her medical records regarding physical examination findings and multiple Waddell's signs and recommended a CT myelogram or MRI for evaluation. The patient remained under the care of Dr. Chau and Dr. Nguyen for treatment of cervical and lumbar pain. The request for surgical intervention was not certified twice. The request for exploration right L5 nerve root, stabilization and fusion L5-S1, Iliac crest bone graft, pedicle screws/rods, anterior fusion L5-S1 Cirloc is being independently reviewed for medical necessity.

Questions for Review:

1. Item(s) in dispute: Pre-authorization denied for exploration right L5 nerve root, stabilization and fusion L5-S1, Iliac Crest Bone graft, pedicle screws/rods, anterior fusion L5-S1 Cirloc; LSO Brace, Cryo unit 10 day rental.

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Explanation of Findings:

Exploration of the right L5 nerve root, stabilization and fusion L5-S1, Iliac crest bone graft, pedicle screws/rods, anterior fusion L5-S1 Cirloc; lumbosacral orthosis (LSO) brace, Cryo unit 10 day rental is not recommended as being medically necessary.

Another operation on this patient's back with the exploration of the right L5 nerve root with fusion instrumentation and extensive treatment cannot be recommended as being medically necessary for this patient. She is a poor surgical candidate. She has evidence of significant peripheral nerve disease and has multiple Waddell's signs and demonstrates poor participation in the exam. She does have evidence of right sided L5 radiculopathy; however, her MRI is not of a consistency or magnitude of disc herniation that would cause electrodiagnostic evidence of radiculopathy. The radiculopathy is more likely due to her peripheral neurologic disease, as opposed to radiculopathy from a herniated disc.

Based on this patient's extensive Waddell signs and the stocking glove distribution of her sensory changes, it is unlikely that the proposed surgery will lead to any significant improvement in her clinical situation. Therefore, the procedure and the LSO brace or cryo unit cannot be recommended as being medically necessary.

Conclusion/Decision to Not Certify:

1. Item(s) in dispute: Pre-authorization denied for exploration right L5 nerve root, stabilization and fusion L5-S1, Iliac Crest Bone graft, pedicle screws/rods, anterior fusion L5-S1 Cirloc; LSO Brace, Cryo unit 10 day rental.

The Exploration of the right L5 nerve root, stabilization and fusion L5-S1, Iliac crest bone graft, pedicle screws/rods, anterior fusion L5-S1 Cirloc; LSO brace, Cryo unit 10 day rental are not recommended as being medically necessary based upon the above rationale.

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

Official Disability Guidelines: TWC: Low Back; pg. 814-816

The physician providing this review is board certified in Orthopaedic Surgery. The reviewer is a member of the American Academy of Orthopaedic Surgeons, the American Medical Association, the North American Spine Society, the Pennsylvania Medical Society, the Pennsylvania Orthopaedic Society, and the American Association for Hand Surgery and is certified in impairment rating evaluations through the Bureau of Workers Compensation. The reviewer has publication experience within their field of specialty and has been in private practice since 1995.

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.

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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. MRloA 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 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: Cherstin B ext 597