MCMC

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

Date:	**04/05/2006**
Injured Employee:	
Address:	
MDR #:	**M2-06-0911-01**
DWC #:	
MCMC Certification #:	**IRO 5294**

REQUESTED SERVICES:
Please review the item(S) in dispute: Pre-authorization denied for MRI of lumbar spine with and without contrast.

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 04/05/2006, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The MRI of the lumbar spine with and without contrast is not medically necessary.

CLINICAL HISTORY:
This 59-year-old male was allegedly injured on _____ when he slipped on a step while descending some stairs. He apparently twisted his left knee and hip and fell on his tailbone on the steps.

He was initially diagnosed and treated for a sprain of the left knee and contusion over the sacrococcygeal region. He complained of low back pain secondary to an old compression fracture of L1. He had apparently sustained compression fractures of L1, 2 and 3; injured his hips and later developed osteoarthritis (OA) of the hips. He also reported had a prior compression fracture of T7 sustained in a rodeo accident.

The MRI study of 04/04/1991 revealed mild degenerative disc disease from T12 through S1 levels. A mild disc bulge was noted at L3/4, L4/5 and L5/S1 that appeared to encroach on the left foramen. He was the scheduled for surgery at L4/5 on 05/31/1991.

He then underwent a left knee arthroscopy on 02/19/1992 and again in 1993. He had a second operation on the lumbar spine on 02/23/1995. Because of persistent symptoms he had a third procedure on the lumbar spine on 11/15/1996. He developed a dural tear and was treated for these new complications.

He also developed atelectasis secondary to pre-existing chronic obstructive pulmonary disease (COPD). The hardware was removed at a fourth spinal procedure on 07/16/1997. He continued to complain of pain and underwent an anterior fusion on 06/04/2001.

REFERENCE:
Current Concepts Review - Lumbar Arthrodesis for the Treatment of Back Pain*
The Journal of Bone and Joint Surgery 81:716-30 (1999)
© 1999 The Journal of Bone and Joint Surgery, Inc.
Edward N. Hanley, Jr., M.D. And Stephen M. David, M.D., Charlotte, North Carolina

RATIONALE:
Dr. Bartel evaluated the injured individual on 11/18/2002 for persistent back pain. He had been treated extensively with medications, physical therapy (PT), injections, and several operations without amelioration of his symptoms. He was taking numerous pain medications and had received trigger point injections and was to receive Botox injections as well. A medical record review dated 02/13/2003 provided the above summary of medical information.

The MRI study of 05/31/1996 revealed laminotomy defects at L3 and L4 on the right, facet arthropathy and foraminal narrowing from L3 to S1 levels., and a recurrent disc herniation on the right at L3/4. There were Type I degenerative changes at L4/5 level.

The myelogram/CT scan study of 07/23/1996 revealed a large herniated nucleus propulsus (HNP) on the right at L3/4 with possible extruded fragment on the left side. There was asymmetry of the L5 and S1 roots most likely a congenital variation. The attempted fusion from L3 to L5 was not solid.

The next notes dated 02/04/2000 from Dr. Bartel document that the injured individual said his back pain was unchanged despite all the treatments provided. On 05/10/2000 he reported that he had undergone a discogram study and was told he had a ruptures disc at L5/S1 level. Dr. Hochscher had recommended a myelogram. On 04/16/2001 he was noted to have lost 58 pounds. He was scheduled for a 360 fusion by Dr. Hochscher to be done in May 2001.

On 01/17/2002 he was still complaining of some numbness and tingling at times in his legs. He was still on several pain medications. On 03/29/2002 he complained of increased pain in his low

back of one month's duration. He was taking prescription and over the counter medications for pain relief, doing a home exercise program (HEP) and walking. Vioxx was changed to Bextra.

On 08/20/2002 he was said to be 100% disabled. He continued to complain of low back pain with a burning sensation radiating to his hips. He also complained of "periodic" numbness and tingling in his feet. He claimed to be unable to walk as far as he did in the past. He also stated that the injections had really helped him in the past. He was taking Vicodin and Bextra. He was then given several epidural steroid and trigger point injections over the next two months.

On 11 04/2002 he was said to respond "well" to steroids and trigger point injections (TPI's). The clinical data does not substantiate this conclusion. Dr. Bartel recommended Botox injections. Despite the poor and very short lived response Dr. Bartel, on 01/20/2003, requested authorization for additional epidural steroid injections (ESI's) and TPI's. These were given in March 2003 despite the absence of any objective data that there was a tangible change in his pain levels.

On 04/21/2004 he was complaining of increased low back pain and claimed to have difficulty "getting up and down". The pain apparently radiated to his right hip and foot. He was taking Effexor, Aspirin, Vioxx, Naproxen, Robaxin, Vicodin for pain relief in addition to other medications for co-morbid conditions.

The CT scan of 06/06/2003 revealed extensive lumbar spondylosis most severe at L2/3 with disc space narrowing. The previous fusion from L4 to S1 with cages was noted. There is no mention of the status of the fusion. Dr. Bartel continued to argue in favor of Botox, ESI and trigger point injections. To date there is no objective scientific data to show that repeated use of these modalities alter the long-term history of chronic low back pain.

On 09/22/2003 Dr. Bartel continued to request Botox injections on the basis that he had severe muscle spasms. Hence these injections were needed. It should be pointed out that regardless of Dr. Bartel's protestations there is no scientific rationale for the use of Botox injections in this type of clinical situation. The issue is not that the injured individual has a failed back syndrome, rather the issue is that there has been a failure of the treatment provided. This raises questions as to the appropriateness of some of the treatments provided in view of the results of the initial imaging studies. The injured individual has had countless injections, a plethora of pain medications and four operations on his lumbar spine.

The injured individual clearly has age-related multilevel degenerative lumbar spondylosis. He claims to have 9/10 level of pain in the morning that goes down to 5 with medications, and then raises to 9 in the evening. The injured individual has type II diabetes and there is no mention how well controlled this is nor is there any mention of his weight. On 01/28/2004 he claims to have had severe pain at an 8 to 10 level with tingling and numbness in his right leg. He was till taking numerous pain medications. Once again on 02/24/2004 Dr. Bartel recommended Botox injections claiming that the injured individual has "a chronic prominent spastic component to his pain".

On 09/02/2004 he continued to complain of the same pain in his back and right leg. He had recently undergone a coronary artery bypass graft (CABG) procedure. Once again Dr. Bartel ordered Botox injections. On 10/26/2004 he complained of less pain yet Dr. Bartel ordered Botox injections. He was said to have "focal dystonia" affecting the "paraspinous muscles". On 12/02/2004 the injured individual all of a sudden stated that "he was doing great until he was at home and made a right turn where his foot would not move and he fell". He allegedly landed on his tailbone and the pain "started all over again". He claimed to have pain in his sacroiliac (SI) joints and "this foot is still numb". He was given a Medrol Dosepak in addition to all his other medications.

Dr. Bartel [neurologist] wrote a letter dated 01/04/2005 once again complaining about a denial of Botox injections. A similar letter was written on 05/05/2005. On 07/06/2005 he appears to have been given the Botox injections in February and he claims that it has improved his mobility and kept him from taking more medications. It should be noted that he is still taking numerous pain medications per day. On examination he was said to have persistent muscle spasticity in the lumbar region. Botox injections were requested.

On 09/28/2005 he claimed to have worsening symptoms and allegedly was falling more and loosing his mobility. He complained of "increased nerve pain and numbness in his leg". On examination he had basically the same findings as before and was to be referred back to Dr. Hochscher the surgeon of record.

Dr. Bartel wrote a letter dated 01/16/2006 stating that the MRI study requested was to "define further treatment options". The reason for this was the injured individual was said to have "focal neurological deficit". It is true that the note of 09/28/2005 states "that the strength in his lower extremity was 4/5 on the left compared to 4-/5 on the right". However the very same finding was noted on 07/06/2005 and the diagnosis was listed as lumbar disc injury with failed back syndrome with symptomatic muscle spasticity. Thus it does not appear to have been any major concerns about the alleged difference in muscle strength of the lower extremities.

There is no documentation of specific muscle groups commensurate with a specific nerve root. The impression is of global weakness of both lower extremities. This is certainly not in keeping with any specific organic lesion in the spine that would warrant MRI imaging studies such as the MRI study. The injured individual has chronic non-specific low back pain with non-anatomical and non-physiological findings. These do not warrant any invasive treatment. Therefore the imaging studies are not warranted.

RECORDS REVIEWED:

- Notification of IRO Assignment dated 03/13/06
- MR-117 dated 03/13/06
- DWC-60
- MCMC: IRO Medical Dispute Resolution Prospective dated 03/17/06
- Flahive, Ogden & Latson: Letter dated 03/21/06 from Rebecca Strandwitz
- Flahive, Ogden & Latson: Letter dated 03/09/06 from Gregory Solcher

- Forte: Notice of Utilization Review Findings dated 01/25/06, 01/13/06
- Forte: Acknowledgment of Reconsideration Request dated 01/18/06
- North Texas Neurology Associates: Letters dated 01/16/06, 05/05/05 from D.R. Bartel, M.D.
- North Texas Neurology Associates: Progress Notes dated 07/06/05, 08/20/02, 03/29/02 from Kimberly Havins, RN
- North Texas Neurology Associates: Botulinum Toxin Injection Charge Sheets dated 02/24/04, 10/26/04, 02/08/05
- Comanche County Memorial Hospital: CT lumbar spine dated 06/06/03
- International Solutions: Letter dated 02/20/03 from Marcia Rooth, Claims Specialist
- Review Med: Medical Record Review dated 02/13/03 from Charles Crane, M.D.
- North Texas Neurology Associates: Letters dated 11/04/02, 01/20/03, 03/10/03, 05/28/03, 09/22/03, 01/04/05 from D. R. Bartel, M.D.
- North Texas Neurology Associates: Epidural Steroid Injection notes dated 09/20/02, 10/04/02, 10/18/02, 03/12/03 from D.R. Bartel, M.D.
- North Texas Neurology Associates: Lumbar tendon sheath injection notes dated 09/20/02, 10/04/02, 10/18/02 from D.R. Bartel, M.D.
- North Texas Neurology Associates: Progress Notes dated 01/17/02, 11/20/01, 08/20/01 from Kin Hansen, RNC
- North Texas Neurology Associates: Progress Notes dated 04/16/01, 04/21/03, 10/27/03, 01/28/04, 02/24/04, 10/26/04, 09/28/05 from D.R. Bartel, M.D.
- North Texas Neurology Associates: MYOBLOC Treatment Records dated 03/12/03, 02/24/04, 10/26/04, 02/08/05
- North Texas Neurology Associates: Progress Notes dated 02/04/00, 05/10/00, 08/08/00, 01/17/01, 07/11/01, 11/18/02, 09/02/04, 12/02/04 from Lawrence Russell, PA-C
- D. R. Bartel, M.D.: (first word not visible) and Subsequent Medical Report signed 02/04/00
- Radiological Consultation Request dated 05/22/97
- D.R. Bartel, M.D.: Test report dated 09/16/06
- Wichita General Hospital: Myelogram and Post Myelogram Lumbosacral Spine CT dated 07/23/96
- Wichita Falls United Diagnostic Center: MRI lumbar spine dated 05/31/06
- North Texas Neurology Associates: Undated Progress Note from Jimmy Whetsell, PA-C

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

__5th____ day of _____April_____ 2006.

Signature of IRO Employee: _____

Printed Name of IRO Employee: Beth Cucchi_____